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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

REVIEW OF BRITISH COLUMBIA LEGISLATIVE PROCEDURES

FRIDAY, FEBRUARY 25, 1983



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Kerr, G. A. (Burlington South PC)
VICE-CHAIRMAN: Rotenberg, D. (Wilson Heights PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lane, J. G. (Algoma-Manitoulin PC)
MacQuarrie, R. W. (Carleton East PC)
Mancini, R. (Essex South L)
Treleaven, R. L. (Oxford PC)
Watson, A. N. (Chatham-Kent PC)

Substitutions:

Hennessy, M. (Fort William PC) for Mr. Lane
Robinson, A. M. (Scarborough-Ellesmere PC) for Mr. Watson

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

Witness:

MacMinn, G., Deputy Clerk, Legislature of British Columbia



LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Friday, February 25, 1983

The committee met at 10:09 a.m. in committee room 2.

REVIEW OF BRITISH COLUMBIA LEGISLATIVE PROCEDURES

Mr. Chairman: Gentlemen, I see a quorum. First, I would like to welcome George MacMinn, who is the deputy clerk of the British Columbia Legislature.

You will recall we were to visit Victoria last September to learn something about procedural affairs in BC. Unfortunately, our Legislature reconvened, Mr. MacMinn, and we just prorogued the day before yesterday after the second longest session in our history, lots of hot air.

Mr. MacMinn is in Ontario for the Speaker's task force meeting and he has offered to take a little time to appear before our committee. Mr. MacMinn, would you just give us an overview of your role and the work of the Legislature in British Columbia? I am sure it corresponds, to some extent, to the role of the deputy clerk here.

We are attempting to improve the efficiency of procedure in our Legislature and to make some changes in our standing orders. Any information we can get from our neighbouring provinces and other jurisdictions is always very helpful. We were thinking seriously of going to Australia, but in this time of restraint we have to stick to Canada. If you would like to make a few preliminary comments, we would appreciate it and I am sure questions will flow from members of the committee.

Mr. MacMinn: Thank you, Mr. Chairman. Let me say initially that perhaps I am here more in a different capacity to that of deputy clerk of the House. I have another hat, that of commissioner under the British Columbia statute the Legislative Practice Inquiry Act, which is an act of the BC Legislature, copies of which Mr. Forsyth may have. It was enacted in British Columbia between 1972 and 1975 when the New Democratic Party was in power.

The act is very broad in its terms. Under that particular statute I was appointed around three or four years ago to do some specific projects for British Columbia's Legislature. It is quite separate and distinct from my role as deputy clerk.

During that period I produced a procedural manual which is essentially an annotation of our standing orders, much similar to Crankshaw's or Tremire's annotation to the Criminal Code of Canada, the same format. I took each standing order and put the jurisprudence under it that I thought would be useful and applicable to members and the Speaker and the clerks from time to time. That is the volume there.

When I was doing that book, I took the liberty to suggest that procedural changes were obviously desirable in British Columbia. I used it as a vehicle to encourage procedural reform, which I am personally very interested in. I also did a report on committees of the Legislative Assembly, which has been filed in the House in accordance with the act. The most recent one is a report on the Speaker and the Legislative Assembly of British Columbia. Those were all done in my role as a commissioner under the Legislative Procedure Review Act.

I have been following with great interest the debates in this committee and the Ottawa committee, some of whose members appeared before you. I have read your transcripts of the hearings of that particular attendance. It is interesting to those of us who care about parliamentary reform.

Mr. Rotenberg: I did not know anybody was reading our stuff. We will have to be careful what we say around here.

Mr. MacMinn: British Columbia's standing orders have remained fairly static over the past years, subject to certain amendments which have been made. The most substantial amendments were made between 1972 and 1975 in terms of limitations--time limits on debate and limitations of speeches.

I have read that you have been wrestling with this problem in Ontario. I do not think I have to give you any litany about what are the duties of a deputy clerk or clerk. You know that, and perhaps you are not too interested in it.

Mr. Chairman: All we know is they make a lot of money.

Mr. MacMinn: They make too much money and they have too much time off, but they are very useful people.

Mr. Breaugh: Now this is going to be read into the record.

Mr. MacMinn: They are extremely useful to a committee such as yours in procedural reform. Some legislators in Canada have asked me: "How come in British Columbia you do not have a committee sitting all the time to work through procedural reform matters? Why is it in the hands of a single commissioner?" That question is perhaps difficult to answer except to say this. Some of you gentlemen who are in the legal profession will recall that an eminent jurist once said that law is much too important to leave to the lawyers. There are certain people who feel that the law of parliament is perhaps a little delicate to leave to parliamentarians because they have different reasons for looking at parliamentary reform.

How many times have you heard, and perhaps indulged in it yourself a little: "Let us not look at reform. Let us look at tradeoffs." I am not sure that is the best place to start with parliamentary reform. In any case, in British Columbia the attitude is this, "Let us have the rules looked at by someone who has been sitting in the House for 25 years and see if he can give something--a raw bone--to the committee." So these are the bones

that have been filed in the House.

Your next question might logically be: "What has happened to this stuff? Where is it?" I regret to say that it has been filed; it has been looked at with some interest but it has not been referred to a committee for study and perhaps implementation. I have been led to believe that the people in our Legislative Assembly who care about procedural matters are studying it now. I have not given up hope. I have faith. I intend to make as much noise about it as I can until somebody accepts it or rejects it or does something with it.

I consider the recommendations sound. I had some excellent advice and assistance from the United Kingdom on the procedural manual from Westminster. It has been used and accepted in my province. I highly commend such a manual to you in Ontario for the use of your members. Needless to say, it was designed in a loose-leaf edition, as well as this one, because we are all hoping that the standing orders will change in British Columbia, and I am sure you are hoping there will be changes here. If a manual is completed, it is not lost because there are changes; you simply do it in a loose-leaf form.

Those are my preliminary remarks. I do not know what other way you wish me to go.

Mr. Chairman: I am sure a number of the committee members have questions. I have just one question I would like to ask, or a point to raise. Would you think that if these considerations were before a committee such as ours, rather than under an act giving you that power, there might be more chance that your recommendations would be considered by the Legislature and some of them implemented? Or do you have a committee that you were referring your recommendations to, a specific standing committee, for example?

Mr. MacMinn: I think I would say yes in answer to your first question. I think if these reports had been born out of deliberations of a committee like yours they would have had a better chance of getting implemented more quickly. I agree with that. What I have some difficulty with is accepting the concept that a committee could give birth to these things as expeditiously as a lone commissioner.

10:20 a.m.

Mr. Rotenberg: I think I heard you saying earlier in your remarks you had done something about time allocation and speech time limitation. Will you elaborate on that as to what you have done and, more important, how you got that through your Legislature? Were there tradeoffs or how did you get to the point? Opposition members do not seem to be as happy as government members with time limits on speeches or a time allocation process. As you know, we are wrestling with that one at the moment.

Mr. MacMinn: You really get into a deep philosophical problem with this thing. In my view, all time limits are viewed by the opposition as unreasonable--that has been my

experience--because the expeditious handling of legislation and estimates seems to be a desire of the administration.

When the Legislative Assembly bogs down or goes badly or when parliament falls on its own sword, a disproportionate amount of blame goes to government. While we are all men of goodwill and do not wish to have political gain at the expense of the institution, the realities of politics seem to go contrary to that concept. In answer to your question, and I am doing it in a long way, I am sorry--

Mr. Rotenberg: Please do. We want to get some of the philosophical background as well.

Mr. MacMinn: You asked how this happened in British Columbia. In BC, a committee such as yours was struck and it was asked to look into the endless sessions we were having, the never-ending sessions, and you know all about that here. How can we shorten things? How can we shorten things but be fair?

Estimates were always the problem. After a lot of study and examination by a committee such as this, it examined what other jurisdictions did. How many hours does it take to do estimates all over the Commonwealth? After distilling all this information, they decided that 135 hours was a reasonable amount of time for estimates in a jurisdiction of our size, with the number of members and a budget the size of British Columbia's at that time. However, when that was put forward as a motion in a committee such as yours, it was fought strenuously by the opposition of the day. I am not telling any secrets out of school; that was during the time Mr. Bennett was in opposition.

Mr. Chairman: Was he ever in opposition?

Mr. MacMinn: He was in opposition, yes.

Interjection: Years ago.

Mr. MacMinn: Bill Bennett was Leader of the Opposition when that committee was dealing with that problem.

Mr. Rotenberg: That is when the funny people were in power.

Mr. MacMinn: At that time, the government of the day thought this was a reasonable amount of time. This is an interesting lesson which, with great respect, I give to you. The majority members on the committee, after a long dialogue and debate--I clerked that committee much as Mr. Forsyth is clerking this one--decided that 135 hours was more than reasonable. But it was fought vigorously by the opposition, which coined a phrase during that debate when it went to the House, "Not a dime without debate." That meant, "Nobody gets anything unless we have debate."

Mr. Rotenberg: Write that one down, Mr. Breaugh. It is inflation; not a dollar without debate.

Mr. MacMinn: The message was simple; 135 hours was too

restrictive. "We want to have unlimited debate," said the opposition of the day. But, as majorities do, they passed the amendment to the standing orders against vigorous opposition. The next day the opposition woke up and found it was the government, which was very interesting. Now the people who were opposing 135 hours were in power. Estimates came up during their first session. What were they going to do?

Mr. Breaugh: Naturally, they rescind that.

Mr. McMinn: What are they going to do when 135 hours comes up? At this point, the former government, which brought in what everybody believed was a fairly civilized suggestion--this time, that government is in opposition, so it is doing its number as opposition now. The estimates go on and on; 100 hours pass and 130 hours pass and only half the estimates are through.

Mr. Chairman: Now it is not a nickel without debate.

Mr. MacMinn: What is the government going to do? You guessed it: the government rescinded the 135-hour provision and we are away again in 13-month sittings.

Mr. Rotenberg: The difference is our government never changes in this province.

Mr. MacMinn: You say that lightly, but--

Mr. Rotenberg: I do not say it lightly; I say it very happily.

Mr. MacMinn: It is no joke. You see--

Mr. Breaugh: You are right; it is no joke.

Mr. MacMinn: When you are looking at parliamentary reform, you must ask all parties whether this is a reform they see as something the party across the floor may inherit. The opposition parties looking at reform are saying, "Is this something I would want as government?" I do not know how you resolve that, gentlemen.

Mr. Rotenberg: We do not have those considerations.

Mr. MacMinn: Well, you may not.

Interjection.

Mr. MacMinn: In British Columbia, we have limitations on debate for the address and reply and for the budget debate. The address and reply is six days. The budget debate is 10 days. Limitations on speeches: mover and seconder, 60 minutes; any other member, 40 minutes.

Mr. Rotenberg: Is that just for throne speech and budget debate?

Mr. MacMinn: No, that is for second reading of bills; mover is 60 minutes and any other member is 40 minutes. Okay? It is 60 minutes for the mover of a second reading bill unless it is a leader of a party or a designated speaker, who has no limit. A leader of an official party or the designate has no limit on time for his budget speech, his throne speech or his second reading speech.

Mr. Rotenberg: That could mean the opposition critics would have no limit on their time on a second reading bill either.

Mr. MacMinn: One man.

Mr. Rotenberg: One man; but everybody else has the limit.

Mr. MacMinn: Right.

Mr. Rotenberg: Then there could be only one person filibustering.

Mr. MacMinn: Yes. I have read your dialogue about the effectiveness of cutting down the number of--

Mr. Rotenberg: May I ask a question? You said that applies to throne speech, budget and second reading. Are there limitations on other things, such as when you are debating resolutions or committee reports?

Mr. MacMinn: All other proceedings in the House not specifically provided for: mover, 60 minutes; any other member, 40 minutes. It applies to motions too.

Mr. Rotenberg: It applies to motions. It applies to the kind of debates we have where one may be debating a report where there is no motion on the floor. It is just debating a government--

Mr. Chairman: Any limitation on emergency debate? Do you have emergency debates?

Mr. MacMinn: The rules are too tough. We do not have them.

Mr. Rotenberg: How did you get away with that one?

Mr. MacMinn: If you apply the urgency rules, as spelled out in the authorities, there is almost nothing that would qualify.

Mr. Rotenberg: That is a very good interpretation.

Mr. Hennessy: We seem to have them every day.

Mr. MacMinn: Then you are not applying the rules strictly.

Mr. Hennessy: It all depends who it is.

Mr. MacMinn: Again, I am speaking--

Mr. Rotenberg: The point is that 60 or 40 minutes applies basically to every procedure in your Legislature.

Mr. MacMinn: Yes. Except in committee, the limits are 30 minutes.

Mr. Rotenberg: Is that committee of the whole House?

Mr. MacMinn: Any committee, committee of the whole House, committee of supply; 30 minutes is the limit, but you can speak any number of times.

Mr. Rotenberg: Are your speakers limited to once only in the House, as we are, at budget debate and so on?

Mr. MacMinn: Yes.

Mr. Rotenberg: If a mover of a bill winds up--

Mr. MacMinn: A mover speaking the second time closes the debate.

Mr. Rotenberg: Do they have 60 minutes at the beginning and the end, or 60 minutes altogether?

Mr. MacMinn: The mover has a 60-minute total unless he is a designated speaker.

Mr. Rotenberg: Do you find many of them use the maximum?

Mr. MacMinn: Yes. Maximums tend to become minimums, in my view.

Mr. J. M. Johnson: Mr. MacMinn, you were citing some of the rules of the House. Were these rules implemented after your recommendations or rules that have been in existence?

Mr. MacMinn: The time limitation rules?

Mr. J. M. Johnson: All the comments you have been making. Were any of the recommendations that you presented accepted?

Mr. MacMinn: They have been over the years, but my major reports have not been accepted by the House.

Mr. J. M. Johnson: With any of the studies that have been done, have there been any changes of any significance in the last several years?

10:30 a.m.

Mr. MacMinn: Yes. Ten years ago rules were changed, as a result of studies completed, relating to Hansard, transcripts, the application of Hansard to committees. There were rule changes as a result of studies made.

Mr. J. M. Johnson: In the last 10 years, have there been

any significant changes?

Mr. MacMinn: In the last 10 years, there have been no significant changes. I would call them housekeeping changes rather than changes of substance.

Mr. J. M. Johnson: This is one concern I have. I feel in so many committees we study everything under the sun and take no action. I find it very frustrating. Everyone agrees we waste time in estimates, and everyone, or most people agree, time limitations in debates should be achieved. There are all kinds of things. You mentioned earlier you did not feel you should go at this with the idea that there should be tradeoffs. Is that correct?

Mr. MacMinn: No, I do not think I intended to convey that to the committee. What I said was this. I think when you approach parliamentary reform, you can approach it on a tradeoff basis or you can have the parliamentary reform examined without any political considerations whatsoever.

Mr. J. M. Johnson: Is that feasible?

Mr. MacMinn: It is feasible from my point of view. What the politicians do with it after that is their business.

Mr. J. M. Johnson: Do you not feel there have to be tradeoffs to make it acceptable?

Mr. MacMinn: I agree 100 per cent. No matter how cleverly or academically well-designed a rule change may be, if the participants in the play do not like it, it is not going to work.

Mr. J. M. Johnson: Realistically, if this committee is going to go anywhere, we have to accept the requirement that we are going to have tradeoffs acceptable to all parties.

Mr. MacMinn: I think that is a very fair statement.

Mr. Rotenberg: May I interrupt? You said your reports have not been acted upon. Is that because they have not got to them yet or because they have been rejected?

Mr. MacMinn: They have not got to them. They have not even sent them to a committee.

Mr. Rotenberg: They have not been rejected. They are sitting waiting to be looked at.

Mr. MacMinn: They are in limbo right now.

Mr. Rotenberg: Do you get the impression they are being stonewalled, or is that a fair question?

Mr. Treleaven: How long have they been in limbo?

Mr. Rotenberg: And how long will they be?

Mr. MacMinn: The committee report was filed in early 1982 and the Speaker's report was filed in late 1982. That is not long. The answer to your question is this. I do not think parliamentary reform is viewed in British Columbia as a great vote-getter.

Mr. Chairman: Do the members of the Legislature have any feeling that their sojourn in the House and their duties and activities could be improved?

Mr. MacMinn: Everybody feels that way.

Mr. Chairman: That time allocation could be improved?

Mr. MacMinn: Everybody feels that way, Mr. Chairman. We have great polarity in British Columbia between the two parties and a very closely balanced House, 31 to 26, 30 excluding the Speaker that is, 30 to 26 on the floor. There is great hostility between the two parties, a lack of trust.

Mr. Hennessy: Not like here.

Mr. MacMinn: Not like here? Good.

Mr. Chairman: Two extremes, really, in many respects.

Mr. MacMinn: Yes.

Mr. Rotenberg: (Inaudible) divides the hostilities.

Mr. MacMinn: I view the situation in British Columbia as ideal, as perfectly right for parliamentary reform, because each party thinks it will be forming the next government. What an ideal time to bring in parliamentary reform. That is my view, but I am not a politician.

Mr. Robinson: Mr. Chairman, on the same point, you indicated at the outset you thought that by appointing a commission rather than a committee you were able to bring forward more practical recommendations for increasing efficiency, for the reform of parliament, rather than for tradeoffs. I have to ask, in the light of that statement and the discussion you have just had with some of my colleagues, is it really not much more than bringing forth a research document that a committee of politicians is going to adjudicate anyway? Is it is not simply rearranging the steps rather than reforming that end of the process?

Mr. MacMinn: Yes, I think there is a certain amount of truth in what you say. I guess the detail work that has been completed by the commissioner in British Columbia is a burden that is now taken off the committee or research officer of the committee or whatever. I look on it essentially as a plan, as groundwork, I guess because I am personally involved in it a little more.

I am known to both sides of the House in my province as a table officer. I have been there for some years. I felt that these documents, when they got to a committee, might have a little more

credibility than something that came from a pure academician. I have run my recommendations, of which there are 10, past the Speaker and the Legislative Assembly of British Columbia, and I have run them in an informal way past members of the opposition and members of the government. The document is no secret. It has been tabled in the House.

I hear people, who will remain unnamed, say, "I could go for eight of these, but before I went for the other two, I would have to have some kind of concession on, say, question period or whatever," which I have not dealt with in this report. I understand the realities of tradeoff, but in British Columbia the view was that it was best to proceed this way because of personal circumstances.

Mr. Robinson: So you may produce a better detailed, more practical, realistic report, but that has not expedited its disposition.

Mr. MacMinn: No, it has not been given to a committee of the House for study and recommendation.

Mr. Robinson: Fair enough. You touched on question period. That was something else that was highlighted in your very interesting report. I presume it is yours? It is Smirle's? I should have known it was Smirle's. John's? Nobody wants to take credit for it. Anyway, we have a report in front of us called The Speaker and the Legislative Assembly of British Columbia. It is an interesting document, and I do not know why all these fellows are so interested in disclaiming it this morning.

I would like to know how your question period operates in a real sense in 15 minutes. Are those 15 minutes consumed by what we in Ontario euphemistically call leaders' questions? Is there an opportunity for many questions? I think my friends on both sides would agree that in our past three or four question periods, 15 minutes would not have disposed of the first question. Surely you do better than we do that way.

Mr. MacMinn: Yes. The 15-minute question period is run very closely by our Speaker. There are not as many debates as there are in Ottawa. The question period is run in British Columbia in accordance with the way it is supposed to be run. It does not take a 12-sentence preamble to frame a question. The rules are strictly applied and, once members stray in bringing information to the House into a kind of mini-debate thing, they are cut right off. So our legislators are learning to ask a question as it is intended to be asked. Likewise, the ministers or those replying are not intended to give a ministerial statement in question period, they are supposed to give a succinct answer to the question or take the question as notice. I commend this to you. That is what question period is all about.

In answer to your question about who gets priority, who gets called upon, the Leader of the Opposition is normally recognized. Whoever stands up in the official opposition, the leader or someone else, is traditionally recognized first by the Speaker. He will be recognized for one question and perhaps two

supplementaries. A minute is a long time, and he is through with his questions in half a minute.

Mr. Rotenberg: You mean his supplementaries too?

Mr. MacMinn: No, half a minute for the question and half a minute for a supplementary.

Mr. Robinson: You could not say "Hello" in that amount of time around here. Has your 15 minutes been shortened from some other time or was 15 minutes, as it says in the report, the first attempt at a formal question period you implemented in 1973? Was it ever longer and now 15 minutes?

Mr. MacMinn: No, 15 minutes has always been the question period.

Mr. Robinson: What do your standing orders call for by way of the measure of the question? Do they call for questions of urgent public importance? How is that framed? What is a legitimate question according to your standing orders?

10:40 a.m.

Mr. MacMinn: Matters of urgency and importance: I have forgotten the wording of the damned thing. It is not even in our standing orders; it is in a sessional order. The standing orders have never been amended to reflect our practice; so in each session we adopt a sessional order saying that questions may be asked of ministers, or those responsible, dealing with matters of urgency within the province. I have forgotten the exact wording. I am sorry.

Mr. Robinson: Is that ever invoked as a delegitimizing factor in a question?

Mr. MacMinn: Yes, sometimes.

Mr. Robinson: So, obviously, it must really keep moving right along.

Mr. MacMinn: Oh, yes; a lot of questions are asked. I have asked members of the opposition, again on an informal basis, whether they would like to have more time in question period and I have heard it said many times that 15 minutes is quite enough as long as the rules are applied correctly.

Mr. Chairman: They expect to take power, no question about that.

Mr. MacMinn: I think with a balance like this, anybody can have a reasonable expectation.

Mr. Robinson: Just one final question in an entirely different area again: Are your rules for debate the traditional rules of simply one speaker with no rebuttal and no questioning, or do they reflect the new federal system of debate and response?

Mr. MacMinn: The old system.

Mr. Robinson: The same as we have here?

Mr. MacMinn: Yes.

Mr. Robinson: Have you looked at the new federal structure?

Mr. MacMinn: Yes.

Mr. Robinson: Are you taken by it?

Mr. MacMinn: I am very interested.

Mr. Robinson: How about your bosses, the politicians?

Mr. MacMinn: They are not looking at any procedures stuff these days, I assure you. They are looking at other things.

Mr. Robinson: Looking to the next consultation with the electorate?

Mr. MacMinn: Yes.

Mr. Rotenberg: If the questions are 30 seconds, how long are the answers?

Mr. MacMinn: Thirty seconds.

Mr. Breaugh: There is something worth a chuckle--a 30-second answer.

Mr. MacMinn: Let us talk about a minute. If the ministers transgress, the Speaker calls the minister to order. If the questioner transgresses, the Speaker does the same thing.

Mr. Rotenberg: I gather there is no heckling in question period?

Mr. MacMinn: Oh, yes; it is a healthy House.

Mr. Chairman: You say that the question period commenced in 1973?

Mr. MacMinn: Oral question period?

Mr. Robinson: According to my report, it was March 2, 1973.

Mr. Chairman: I think that is probably one of the reasons the 15 minutes is satisfactory to your House. You do not have that long tradition of question period. Maybe you are starting out with 15 minutes, although I am surprised when you say the opposition members feel that is adequate. I am amazed. You must have an excellent Speaker.

Mr. MacMinn: Mr. Chairman, I am sure you have observed

other legislative chambers and parliaments in action, as I have. I have found, almost without exception, that the rules relating to questions are not enforced. It is considered a series of mini-debates. That is fine. There is no right or wrong in parliaments. Whatever works for you is fine, as long as you want to call it that and leave it at that and have two hours or an hour of question period. There is nothing wrong with that at all. But when people ask me how our 15-minute question period functions, I simply say, "Because the rules are applied." That seems to be what they want. They fight it a bit.

Mr. Rotenberg: How many questions do you get in question period?

Mr. MacMinn: That is difficult to answer. Some of them are shorter than a minute or a half a minute. They have a yes or a no answer to a well-framed question.

Mr. Chairman: Do they read their questions?

Mr. MacMinn: Some of them do.

Mr. Chairman: The minister must be very knowledgeable to be able to answer in a minute or two.

Mr. MacMinn: Again, for some of the questions that require technical or statistical responses, the members give notice to the minister in an informal way if they are going to ask them in question period.

Mr. Chairman: Do you mean, when the bells are ringing, on their way to the House?

Mr. MacMinn: That morning, perhaps.

Mr. Rotenberg: Are there any questions that the minister takes under notice?

Mr. MacMinn: Quite a few.

Mr. Breaugh: I have a few things I would like to go over. The first is the manual you have with you, which we have and do not have. We do not have a published document such as you have.

Do you find that the members use that regularly? For example, here we are often into a rather dicey situation. I know there are procedural matters emerging that day because somebody has stolen my Erskine May from my office. Three or four times a year we will get into these long, involved procedural arguments about whether Erskine May in 1833 wrote up something that applies to this. We are always kind of stumped at the last moment because a precedent emerges from somewhere, I suppose from the table officers here, which says: "That is not the way we do it. In 1933 somebody did this." It puts us at somewhat of a disadvantage. You can go to the table officers and get that information, but it is not your first move.

It strikes me that a manual of that kind, which is designed with precedents from your House around your standing orders and the way your Legislature has worked, at least gives everybody a current set of common knowledge, so to speak. That is one thing I would really like to see here. If we all sat down with the same rule book at least and had an argument about procedures, it might be a little more sane.

The Clerk of the Committee: Perhaps I may just interrupt at this point. There is one thing Graham White has worked on which I am now helping with and also Dave Callfas. That is a precedent finder which goes back to Confederation and up to the present date and has any rulings by the Speaker or chairmen of the committees. The debate is reflected there also. The other thing concerns Lewis on Parliamentary Practice. Work has begun on that now and probably within the next year or two there should be a volume issued dealing with procedure in Ontario.

Mr. Breaugh: The reason I do not get excited is that ever since I have been here, that has been happening. But I am really fascinated--

The Clerk of the Committee: Mr. Breaugh, I have started it and the clerk is working on it.

Mr. Breaugh: I do have faith, but there are limits.

The question really is, do your members use that and do they accept it as being the rules of the game in British Columbia? Our problem is that we are looking at the rules here, we are looking at the rules in Ottawa, we are looking at the rules in Westminster, so there is a flow chart of different rules and precedents. Again, it is trying to find one that is reasonably close to the point you want to make.

Mr. MacMinn: It is difficult to answer your question. I must say some members of our House--the government House leader uses this book quite a bit. Sir Erskine May is the ultimate authority. Our standing orders, and I think yours as well, specifically adopt the Westminster practice.

Mr. Breaugh: Yes.

Mr. MacMinn: We do not go to Ottawa. Our standing orders refer directly to Westminster in the absence of a direct guide in British Columbia.

I do not think this book of mine will be accepted until 100 years after I am dead, and then somebody will think it is very wise.

Mr. Breaugh: That is the price you pay for that. Death is an important first step.

Mr. MacMinn: I accept that. It is useful to the members and those who are interested in procedure. Those who read any kind of procedure, read mine, but there are many who do not read any. Those who do not read any, do not look at mine either.

Mr. Breaugh: There are a couple of other things I wanted to touch on with you. You made a comment about the time allocation for speeches and how they become self-fulfilling after a while; the maximum becomes the minimum. We are diddling with that one again too. I remain unconvinced that the allocation technique is a successful one.

Mr. MacMinn: Do you mean allocations or time limits?

Mr. Breaugh: Time limits on speeches per se. You have adopted one which strikes me as being quite reasonable, but it quickly becomes unreasonable if everybody says, "I am allowed 40 minutes, so away I go for 40 minutes." When you went to that system, or in the usage of that system, do you really find that the debates are shortened in any sense? I guess the real question is, are your debates any shorter than anybody else's debates?

Mr. MacMinn: In my view, limitation on speeches has very little meaning unless there is a time limit on the debate itself. So within our budget debate, we say, "no limit for the Minister of Finance, 40 minutes for any other member." But we have a 10-day or 14-sitting overall on the thing. How they use the time within that 10 days is really up to the parties and the caucuses themselves. To effectively know how long a debate is going to take, you will not accomplish that by limiting the length of a speech, obviously, particularly in committee when you can speak 100 times at 10 minutes each or 100 times at 30 minutes each.

10:50 a.m.

The effective way to get the business through the Legislative Assembly, to get it through Parliament, is to know that after 100 days estimates have to be finished. You know that before you go in. You leave it up to each party to concentrate on the ministry it wants to and to give it as much time and hammering as it wants to. You cannot be heard to cry wolf when your 100 days are over because you knew ahead of time. I do not know whether I am answering your question. It does not matter whether you have a 10-minute limit, a 20-minute limit or a 40-minute limit on each member as long as you have some understanding about how long the debate is going to take.

Mr. Breaugh: The difficulty I have with the limits on speeches is that it does not take a hell of a lot of ingenuity to figure out a way to beat the limits.

Mr. MacMinn: It does not take any ingenuity to figure out how to beat any rules, no matter how well designed.

Mr. Breaugh: I was interested in Walter Baker's remarks about how he sees allocation of time as being much different than closure. He has a rather lucid argument about that.

Mr. MacMinn: That is because of his position at one time in the House of Commons.

Mr. Breaugh: The only problem I have, and I would be interested in your comments on it, is you did say that you have 10 days for this debate or whatever and at the end of 10 days that is game over, everybody knew that going in. The only real difficulty I have with that concept is that sometimes that means certain matters are not dealt with.

If, for example, you have put an allocation on a bill, and we have just gone through a couple of rather happy experiences in that regard--

Mr. MacMinn: Is that the guillotine you are talking about?

Mr. Breaugh: Yes, something like that. The allocation of time succeeds in getting the bill through, but often you do wind up with a situation which nobody is particularly happy with. The government gets its bill, but it gets it in a form it really does not want. It has three or four amendments which it feels desperately it has got to have and they are at the tail-end of the process but we never get to the tail-end of the process. You get through the first six clauses and the bill goes through because of a time allocation motion, but you lose the opportunity to make amendments.

Mr. MacMinn: I see. What you are saying is you could stonewall a government amendment by talking excessively on an earlier section.

Mr. Breaugh: That's right.

Mr. Rotenberg: It has been done.

Mr. MacMinn: I guess that is available.

Mr. Breaugh: That is my difficulty with the two known tools of speeding up the process. Both seem to have a major imperfection in them. I can think of some variations which would get you around that, but they are awkward at best. Obviously, if I do not want to get to section 9 in whatever bill is in front of me, and I have agreed to 10 days of debate, I am going to do nine and a half days on the first two sections. Then we will see whether we get to section 9 eventually or not, or whether they have to take it as they put it.

Mr. MacMinn: There is no substitute for goodwill.

Mr. Breaugh: Exactly.

I wanted to go through a couple of the recommendations which you have made on the Speaker. You hit upon a couple of favourite points of mine.

On page 47 in the report you made on the Speaker and the Legislative Assembly of British Columbia, you went to a couple of points which I think we should deal with as well. One is the matter of appealing decisions of the chair. Give us a little bit on your point of view on that. We do that here.

Interjection: Regularly.

Mr. Breaugh: Yes, we do it regularly. In a sense, to put both sides of the argument, for the most part from the opposition point of view, it is an opportunity to say that you do not agree with the ruling of the chair. It is your last chance, I suppose, to say in a not very productive way, "I don't like what is going on here." But it does not change things. It does put the Speaker in an awkward position. For those of us who have a little more reverence than others for the position of Speaker, it causes us a little bit of difficulty.

I am very awkward at that process. I do not like the idea of saying that to a Speaker. However wrong he or she may be, the Speaker has a job to do that is not a very pleasant job from time to time. The House, in choosing that person, puts him in that position. I think the difficulty is really tied in with two of the recommendations you have here. They are six and seven.

We have gone around this subject about choosing the Speaker on a number of occasions now. To summarize our position here, opposition parties do not feel they play much of a role in selecting the Speaker. Basically, that is still an appointment made by the Premier and ratified by his government. Therefore, we do not have a whole lot of qualms about challenging the chair and not showing gobs of respect for the Speaker on occasion. Are those two recommendations really intertwined?

Mr. MacMinn: Let me deal with number 7 first, that the proposer and seconder for nomination of the office of Speaker be chosen from the back bench.

Mr. Chairman: Is that the government back bench?

Mr. Breaugh: Any back bench.

Mr. MacMinn: No, any back-benchers. I would prefer a back-bencher from government and a member of the opposition, a country riding or something, a rural riding, anything to get it away from the executive council.

Mr. Breaugh: Yes.

Mr. J. M. Johnson: How many back-benchers would you have on the government side?

Mr. MacMinn: Not very many. About 11.

Mr. J. M. Johnson: In other words, you are giving the Speaker choice to the opposition.

Mr. Chairman: No, the nominator and the seconder.

Mr. MacMinn: No, nominator and seconder.

Mr. Epp: Just the formal part.

Mr. MacMinn: The formal part, the motion.

Mr. Chairman: Everybody votes.

Mr. MacMinn: Everybody votes. It is really a matter of form rather than substance. I think it is the correct form. People are funny about forms. When a Speaker is nominated directly by a prime minister or a premier, there is an association that is made right away. We all know about the Speaker's position. We all know what he has to do at election time. Why make his job more difficult going into the ball game by getting an endorsement, a touch on the shoulder, from the executive council? I just think it is bad form and it is not done in the more sophisticated jurisdictions of the Commonwealth.

Having said that, I think the Speaker starts off better. I think there is a better feeling in the House when the Speaker has been nominated in what I call a nonpartisan way, a low profile way.

Under our system, the Speaker is always going to be elected by the majority in the House. Whether you can create an artificial constituency, whether you use any of the neat devices we have heard about to take politics away from the Speaker, probably he is going to be chosen by the majority party in the House.

Mr. Chairman: You don't have a minority government out there.

Mr. MacMinn: I'm sorry?

Mr. Chairman: With a two-party system, you cannot have a minority government.

Mr. MacMinn: That is right. We cannot have a minority government. We talk about the Speaker's decisions and the dilemma the opposition members finds themselves in. I cannot accept the proposition that the Speaker's decisions on matters of law, of clear-cut, acceptable parliamentary law, should be appealed. It becomes an automatic trigger mechanism. Somebody raises a point of order for whatever reason--and sometimes, with great respect, knowing full well the point of order does not have substance--and the Speaker does what he must do. He rules it out of order. The member gets up and appeals the thing.

What happens right away is the government side, to support the Speaker, stands up and votes for the Speaker, which is a further identification of the Speaker with the majority. The opposition should realize in doing that process they are doing themselves a disfavour. Indeed, the right to appeal the Speaker's decision from the floor of the House militates against the opposition more than the government, if you think about it.

Mr. Breaugh: Yes, it does.

Mr. MacMinn: If the Speaker is in a position to be appealed right away from the floor of the House, who does he really have to worry about? The majority, that's all. Perhaps on a delicate balance, is he going to give the decision to the

opposition, on a delicate point of procedure where it could go either way? He is not going to give it to the opposition because he can be appealed right away by the government.

I say it is in the interest of the opposition to get rid of the automatic appeal from the floor. If they want to appeal it, they should do it on a substantive motion.

11 a.m.

Mr. Breaugh: In these two recommendations you have kind of hit upon the nub. I do not know if this is really a tradeoff in the traditional sense or not, but I am an advocate of the idea that you really should not be able to appeal what the Speaker has made a ruling about because often that happens in the middle of a great argument. People are angry on both sides, and really what they are saying is: "I am taking my hockey net and we are not playing street hockey on my road any more. We are going home."

It has to be done quickly, which is one of the problems. I really would rather not do that. I think my solution to the problem is to take the other recommendation you made. When we are beginning the process of selecting a Speaker, let us try to get that into--it may be formalities, but I hope it is more than that. Get me to agree that this person is a good one to have chair the proceedings of this Legislature. As long as I have been a participant in that decision-making process, then I am prepared to say, "Okay, I might have screwed up three years ago when I nominated this guy to be Speaker, but at least it was my mistake and I will live with it." That is the problem with the process as we have it. Opposition parties are told who is going to be the Speaker, usually on the morning the appointment is made or something like that. That originates the problem.

My judgement call is you have to do the two. They are importantly connected. If you look at Westminster, for example, you almost get the impression there that the Speaker is above it all. There is one person who sort of comes from on high and makes decisions and everybody lives with them.

Mr. MacMinn: The Speaker in the United Kingdom certainly is in a revered position. That just does not happen by virtue of any mechanics. The members of the House of Commons place him in that position, allow him to be in that position and want him there. That goes right back to the will of the members. Did the members want their House to look that way or do they feel they profit by disarray? That is a soul-searching question that everybody has to ask himself.

Mr. Breaugh: Let me pursue a couple of things that came out of your report on committees.

Mr. MacMinn: Somebody has read this stuff, eh?

Mr. Breaugh: Every time I look at one of these things I am struck by the fact that everybody seems to go very quickly to problems with committees and sees some solutions in there,

probably from different perspectives. I think most of us see there is some potential in a committee structure that is alive, well and working for an ordinary member, not a member of the cabinet, to actually do something sensible; it is sensible use of your time. You do not seem to be any more successful at getting it done than we are.

Is there any future in a parliamentary system for changes in committee structures such as we have suggested and you have suggested?

Mr. MacMinn: The irresistible logic of a well-designed committee system is so apparent to me that I am having troubles reacting to British Columbia's sort of "hands off the thing, I do not want to bother about it." You ask if there is any future. I say to make Legislatures or parliaments work, you have to have one of two things. You have to have a well-designed committee system in place or you have to have time limits on committee of the whole. One of those two things has to happen or you have something close to anarchy. You have a machine running wild which it is impossible to effectively do anything with.

I do not know whether anybody has ever looked at the purpose of a legislative assembly and what it is supposed to accomplish.

Mr. Epp: That is the best question I have heard since I have been here.

Mr. MacMinn: What is the balance between fair debate and--

Mr. Breaugh: The purpose of a committee is \$52 a day--well, \$60; inflation hits us all.

Mr. MacMinn: Your question is very difficult to answer.

Mr. Breaugh: On page 7 in your report you went through what do you do about the committee structure, and it is virtually identical to the kind of conclusion we came to. Everybody else I know of who has looked at committees says: "If you want the committees to really function, this is the little set of things they have to have. They have to have some staff, they cannot be too big and they cannot have people wandering in and out and they have to know what they are about." So we are in general agreement, no matter where you look or who is studying the proposition, that this is what to do.

It seems to me the basic conflict is the parliamentary system. There is a cabinet, which is the government, which runs the show and everybody else who is in the building on the government side. Their role in life is to stand at the appropriate moment. On the opposition side, their role in life is to try to make those 25 or 30 people in the cabinet look bad, and that is it. There is no more to a parliamentary system than that. That creates immense frustration on all sides.

It seems to me we must go to something like this, and if you look at what the federal committee has attempted to do and what it has done in the last little while, it seems to be unfair. It seems

what they have tried to do is find areas where we do not know what we are going to do, where the government is not on the hook for a given policy or a direction and everybody will be reasonably free to pursue it, not really in an academic way, but at least in a nontraditional partisan way. That seems to me to have real limits on what it can do.

I am really advocating that this kind of committee structure is going to arrive come hell or high water, and I am confused. Basically, I believe a cabinet or a government winds up looking better if it has a more efficient committee system. It has an escape valve there if it has a hot problem it has not done well on, or does not know what to do with: whip it off to a committee that can handle it. When it comes back in, it strikes me, if the committee has rectified the problem, it will always be the government that says: "See, we resolved that one. We sent it off to a committee." I really do not understand that, except in a very traditional way cabinet really likes to hold on to that.

Mr. MacMinn: I think it was your Mr. Fleming from Ontario who was out talking to Speaker Schroeder, the former Speaker of our House, when we were considering internal economy boards in British Columbia. Mr. Fleming asked the classic question: "Why are you prepared to give up all the power you have now and share it with an internal economy board? You are an absolute. You are in charge of the Speaker's jurisdiction by yourself alone. Why are you prepared to give it up?"

The same kind of question is asked about cabinet and the powers that cabinet has and making a more meaningful role for the back-benchers. Committee systems which could take something away, they see it as that. The fights between parliament and the executive have been going on for some years and people are reluctant to give up power or what they perceive to be power.

So they do get rather confused. When a cabinet looks at parliamentary reform, it says: "What is the downside on this thing? What control are we giving up by reforms?" They all ask the same question.

Really what you have to do is have people of goodwill who are speaking to those in power, people who are convincing advocates of parliamentary reform, and make it clear that these reforms are for the institution and they take zilch away from cabinet. I do not know who carries the message to Garcia around here, but whoever does must be a good advocate or you will not get your reforms.

I think we are on the brink of doing something in BC. I am not saying it is impossible. I am saying we are on the brink there and I am hoping it is going to happen.

Mr. Chairman: What do you think of the method of the federal committee in meeting, having witnesses appear before it, advertising, discussions with their own caucus, each party within the committee, discussions with their House leaders and then just coming back and submitting a report?

Mr. MacMinn: I think what they have done in Ottawa has just been remarkable when you think of a House that has had the degree of bitterness it has had over the last couple of years coming up so quickly with provisional standing orders and implementing them. I think it is a tour de force. I admire what they have done so far and wish them all well for the future, and I think you do as well.

11:10 a.m.

Mr. Rotenberg: They seem to think it is because there is so much bitterness they could accomplish something.

Mr. Chairman: I think embarrassment may have something to do with it too.

Mr. MacMinn: If you have an administration willing to consider parliamentary reform, it will happen. It is as simple as that. If the administration wants it, it will happen. If they want to stonewall it, it won't happen.

Mr. Chairman: There is no question that the co-operation of the Tory opposition in the House of Commons was instrumental in these rules being implemented, wouldn't you say, sir?

Mr. Breaugh: That Erik Nielsen is a real sweetheart. He should be in the diplomatic corps.

Mr. MacMinn: I do not know what happened to make it work, but it worked in Ottawa.

Mr. Breaugh: To pursue that, though, to be fair about it, when they were here--

Mr. J. M. Johnson: Excuse me. Mr. Chairman, I understood the success of that committee was based on the fact it had an extremely strong chairman.

Mr. Chairman: Is that right? Who was it?

Mr. Breaugh: That seemed to be the consensus among the members from Ottawa with whom we discussed this, that their changes grew out of adversity. Things were so bitter that on all sides they recognized it should not stay that way and some alterations had to be made.

In private discussions--maybe not in front of the committee --they were fairly open about the fact that their proceedings were televised was taking that message back to their constituents, who were regularly assaulting the members on the street, saying: "What are you yahoos doing down there? Is that all you do, sit around and yell at one another?"

Maybe it is the opening up of a parliament and letting the world see how ridiculous it is in some forms that will eventually change it.

Mr. MacMinn: If bitterness and animosity are the seedbed for parliamentary reform, we are in great shape in British Columbia.

Mr. Breaugh: You've got it.

Mr. Epp: Maybe we should have television here too. Maybe that would be the seed to getting some kind of reform here.

Mr. Rotenberg: We have a fair amount.

Mr. MacMinn: If this committee has unanimity on a lot of your procedural suggestions, I think you are in marvellous shape. I do not know what happens in camera, but you are here talking anyway, which is a great thing.

Mr. Edighoffer: None of us has any pull with the Premier (Mr. Davis), though. That is the problem.

Mr. Rotenberg: Speak for yourself.

Mr. Edighoffer: I say none of us.

Mr. Chairman: That's why Mickey is here. He's our liaison.

Mr. Charlton: David, we need you to get some of our reports on the floor for adoption.

Mr. Breaugh: We have got it that far. We just never got around to the vote.

I have one final question for you. A number of jurisdictions in Canada are looking through the same kind of material. We have met with people from Alberta, Nova Scotia, the federal House and British Columbia, and we have had some talks individually with people from Quebec. Would it be a useful thing to try to take something like the Canadian Parliamentary Association and go through the process that way?

For example, when you read the reports on committees and on the Speaker that are coming out of various legislatures, they are all pretty close to the mark. There are some differences for different Houses and the size and nature of the beast locally, but there seems to be a consensus forming and we are all trading pieces of paper; we are reading Hansards from somebody else's jurisdiction.

Would it make it some sense to try to collate that material and to deal with it through the CPA? My experiences with CPA were very pleasant affairs, but they are not terribly productive.

Mr. MacMinn: I think I can answer your question very quickly. My answer is no, it would not be a useful exercise. It is my personal view that each assembly must do its unique designing from within. To collate these things and find a common denominator

would be a useless exercise because a common denominator that might work in seven jurisdictions might be totally unacceptable in the two others. So I think you do your own style and your own thing.

Mr. Chairman: I might just ask a question which we have touched on very briefly here. I am wondering how estimates are dealt with in BC. For example, here we have the Treasurer (Mr. F. S. Miller) issuing a budget statement some time in April. Then there are the estimates of each ministry. I think it is same way in BC, but you can correct me if I am wrong. We have a committee that deals with estimates or the minister can deal with his estimates in the Legislature. These go on until late fall. We have the rather ludicrous situation where most ministries have spent their money, and in November and December we are debating the estimates. Another thing is that really we do not spend too much time on dollars and cents; we are talking policy.

I am just wondering whether that is what happens in BC, or is it a little different out there?

Mr. MacMinn: We do it just as badly. Mind you, we vote interim supply. We find that when we are going beyond our fiscal year, we have regular interim supply things. But in terms of useful examination of estimates, it does not happen. In my respectful view, that is because committee of supply, which is a committee of the whole House, is a terrible way to look at estimates.

We have days when the agricultural estimates or whatever are going through--not necessarily agriculture; it just springs to mind--and we have only four or five members in the committee of the whole.

Mr. Rotenberg: Doesn't anybody call a quorum?

Mr. MacMinn: Sometimes they do if they are feeling cantankerous. I can't believe we are seriously pretending to examine estimates in a committee of the whole with only four members there. It's preposterous. There is no way to call a bureaucrat before a committee of the whole either.

Mr. Rotenberg: Estimates here are referred to standing committees as well.

Mr. MacMinn: You are way better than we are, but again I do not know how well your standing committees function in estimates.

Mr. Chairman: We allow witnesses, bureaucrats.

Mr. MacMinn: You are way ahead of us. We are light years behind you in terms of the use of committees. If you are satisfied with the way your committee system is functioning for estimates, you are fine, but we are not in British Columbia.

Mr. Rotenberg: We're not either. It's not an estimates committee; it's a political debate. By strange coincidence, maybe once or twice during the 15 or 20 hours for a ministry somebody might talk about money.

Mr. Epp: The tragedy about estimates is you can't change anything. You can talk about it, but you really can't change it. We have been doing estimates the last few months, and we are almost finished with the budget. The money is all spent. They are borrowing money. It's a real tragedy.

Mr. Rotenberg: It's totally a debate on the ministry policy and--

Mr. Epp: You can talk and talk and you never get anything accomplished.

Mr. MacMinn: You certainly will not reduce the estimates. You can't defeat them, I suppose. You can't do anything with them; that's true. Again, you must come back to some philosophy, though. The right to spend is the right of the administration.

Mr. Epp: If estimates were developed the way a budget is developed at the municipal level, which is before the money is all spent and where there is some give and take, at least we would have some kind of impact there. I realize there is not the partisan system built into the municipal system; that reflects coming out of municipal life for 10 years, having spent 10 years in municipal politics, as most of my colleagues here have spent some years in municipal politics.

Here I wonder sometimes how much impact a minister even has on that. The Treasurer says, "You have \$1 billion to spend this year on health or whatever," and that's what you spend; that's it.

Mr. MacMinn: I have often felt the same way you feel about legislation. I have often thought how great it would be if legislation after introduction were to go to a committee before second reading.

Mr. Rotenberg: That's the American system.

Mr. MacMinn: Yes. It's a system that has been under close consideration in Australia. Second reading is principle. Once second reading is called, the die is cast; you can't defeat it in principle.

Mr. Rotenberg: I really disagree, and I'll give you an example. We just put through quite a revision of the Planning Act. A number of us in this committee here were also on the committee, and I was parliamentary assistant. We had second reading, and the second reading statement which I made said in effect: "Here is an act and we want to treat this not as formally cast in stone. The principle is there, but the government is quite prepared to look at changes, amendments and things that happen to it."

Mr. MacMinn: Amendments that might affect the principle?

Mr. Rotenberg: Not totally. There are a lot of principles (inaudible). The opposition members may disagree, but I think--

Mr. Epp: I do. I want my equal time.

Mr. Rotenberg: --in committee at least we gave consideration to a lot of points of view and there were a number of changes made, maybe not substantive. Even though it was second reading, as I say, we tried to take the attitude as a ministry, which was different from a number of bills, that at least this bill was open to consideration on a lot of points and nuances.

Mr. MacMinn: Was it a noncontroversial bill? Do you have that as a category?

Mr. Rotenberg: No, we don't have that category. It was not a noncontroversial bill, but at least a number of opposition amendments--not as many as Mr. Epp would have liked--were accepted by the government during that whole process; so it was not quite as black and white as on second reading, cast in stone and that is it.

Mr. MacMinn: I see.

11:20 a.m.

Mr. Epp: Just to clarify: I think there may have been an intention initially--and I do not want to get into an argument with my colleague with respect to that bill--to give a little more latitude to the opposition to bring in some amendments. Although that may have been so during the initial course of the events, I certainly felt, and I think a number of other members felt, that towards the latter part of the discussion stages of that bill, the axe came down and virtually nothing was accepted from the opposition, despite the fact that I felt we made some very good points.

In retrospect, initially there may have been that intention, but at the end you accepted nothing.

Mr. Rotenberg: It was not as black and white as that.

Mr. J. M. Johnson: One of the most important pieces of legislation we introduced was Bill 7, the Human Rights Code, and I feel that opposition had a tremendous influence in that bill. Do you not agree?

Mr. Epp: Human rights was during a minority government, though.

Mr. J. M. Johnson: No. Human rights, Bill 7.

Mr. Rotenberg: Getting back to what we are talking about, what estimates--

Mr. Chairman: The majority of members do have a lot on input on that.

Mr. J. M. Johnson: It seemed, quite often, that an opposition party was more in support of the minister than some of the government members.

Mr. Epp: Maybe that is why it was resolved so successfully.

Mr. Breaugh: Now the truth comes out.

Mr. Rotenberg: As I was saying, whether in committee of supply in the House or in the standing committee in one of the rooms, estimates really become a debate between the minister and the critics on government policy or ministry policy.

Mr. MacMinn: Why don't you get the ministers off your committees?

Mr. Rotenberg: The minister is not a member of the committee; he is a witness.

Mr. MacMinn: A witness. All right.

Mr. Rotenberg: He is not a member of the committee. He sits here as a witness.

What we have toyed with--and we are never going to get agreement on it--is to say, "Okay, there are the estimates and that is the money"--to pick up on Herb's point--"so let us get all the money part of it out of the way within a month or within a very short period of time after the estimates are tabled and then allocate a similar amount of time for a policy debate"--from the opposition point of view or an inquisition from the government point of view--"on what the ministry is doing. Maybe we should set aside so much time for a debate in a standing committee on what the ministry is doing, but take it out of the estimates process."

In other words, there might be a tradeoff where we get all the estimates and all the money out of the way within a month after the budget has gone and then we take a similar period of time for the opposition grilling of a minister on his ministry because that is really what the estimates process is all about.

Mr. MacMinn: Do government and opposition equally feel that the estimates are not being well handled in Ontario?

Mr. Rotenberg: Oh, yes.

Mr. MacMinn: Is there a consensus on it?

Mr. Rotenberg: We have 450 hours of estimates spread over all the ministries. I think there is a complete consensus in this committee, and has been even during a minority government as well as during a majority government, that the process is not working. It is not doing the job it is intended to do. The

breakdown is that we all agree it is wrong, but we cannot agree on what we are going to do to replace it.

Mr. Charlton: The crux of the discussion we have been going through for the past several years now is what useful tool do we put in place to replace the fairly lengthy estimates process we have now?

Mr. MacMinn: What about the design of your committees themselves? Are they too large?

Mr. Rotenberg: We have 12-man committees now. We used to have some bigger and some smaller. We have cut the committee size in half and so on. After listening to what we have all said here, either in your reports or in the back of your mind and your fantasies, do you have some idea of what would be acceptable both to government and opposition to replace this estimates process, which does not work here and obviously does not work in your place either?

Mr. MacMinn: When you say "effect," I guess really you are talking about expediting and having everybody feeling good about it. I think you can do 100 or 200 hours, give the opposition a choice of five ministries, to call the first five that are called and then tell the opposition, "Okay, you can name the first five ministries that will come up to be called, but understand that at the end of X hours the estimates are over."

Mr. Rotenberg: What we were thinking of really is taking that estimate process and even doing it much more quickly than that. From a government point of view, that would get our estimates through, say, in May or June instead of in January. But what is there that would replace the estimate process to give the opposition members a chance to get at the ministries over the way they mishandle estimates? I am not saying that critically; I am saying it is their only way to get at ministries, so they use the estimates for a process for which estimates were never intended.

Mr. MacMinn: If you want to get at ministries effectively and you design such a system, then it will not be acceptable to the administration.

Mr. Rotenberg: But they are doing it now in the estimates process; so we are stuck with something we do not like and maybe we can get something we can agree on that is better. Obviously you have no pearls of wisdom on this topic for us either.

Mr. MacMinn: No. I do not think I can give you any magic formula for effective--

Mr. Chairman: Have you not made a recommendation in either of your reports on this?

Mr. MacMinn: For estimates?

Mr. Chairman: Yes.

Mr. Rotenberg: Or something to replace estimates.

Mr. MacMinn: No. I have not dealt with estimates at all, in a vacuum. They are simply part of my report on committees.

Mr. Edighoffer: If we had a freedom of information act, it would probably save a lot of time on this.

Mr. Breaugh: One of the things we did on our report on committees was to try to split it up. The consensus at that time--and I think it would still hold true--is that one of the things this Legislature does not do, let alone do well, is it does not examine expenditures and money well. It just does not do that.

We talked about splitting it up and having three things happen. One, somebody ought to be looking at money as it is spent. I really believe that should happen and should not be a closed, within-the-cabinet exercise either. Somebody ought to look at it as it has been spent in the traditional public accounts committee sense. There still a valid use for that.

We made recommendations and toyed with the idea, somewhat tentatively--but I think we were impressed with what we saw in some American jurisdictions--that somebody ought to look a little further down the road as well. That financial part of it ought to be cut off, split up and clarified and the committees go to work on that.

It strikes me that then frees up all of this other stuff about whether we really need to spend 420 hours sitting in a committee room pretending to be examining estimates and really having political arguments. From the opposition point of view, there is a lot of time spent there which one really does not want to spend. We are in there for 20 hours because somebody somewhere said, "We ought to do 20 hours of estimates on this ministry." Really what one wants to do is go in and do 30 minutes on it. That is all one has an interest in.

We have got to the point where it is a little ridiculous now. The government ministers have learned how to play this game and they fill these rooms with staff people. Some come in with shopping carts full of briefing books. Some have two-hour leadoff speeches. It is really quite hilarious.

If we all sat down and asked ourselves how much money does it cost to fill this room with staff people, to print those briefing books and run Hansard, we are probably blowing \$5,000 or \$10,000 a day just on paper and probably \$500,000 worth of staff sitting around the room twiddling thumbs, making cartoons, chewing gum and making coffee.

None of us can agree that is productive. From an opposition point of view, we are not getting very much out of that either. We have lots to trade on that front. I am a little confused as to why the trade has not occurred.

Mr. MacMinn: Every jurisdiction has looked at estimates and no one has come up with a perfect formula. If that is the big burr under your saddle in Ontario, that is a worthy subject of a

separate and independent consideration. That was not in my mind when I came here, but now you have brought it up.

I would mention one more thing, Mr. Chairman, a crown corporations committee. I am not in a position to give you any insight into that because I do not clerk the committee. I have had very little dialogue with it. But I would say it is a vastly important committee in British Columbia. If your committee got the opportunity to come to British Columbia to talk to our chairman and members of the crown corporations committee, it might be a very useful exercise for you.

I am sorry I cannot bring it to you because I am not familiar enough with the workings of that committee.

Mr. Chairman: Can we get some idea of why it was created? Was there a special circumstance or a certain scandal?

Mr. MacMinn: No. It was not a reaction to any scandal; it was just the common denominator that everybody said: "These crown corporations are headless monsters and they are a law unto themselves. We do not know what is happening and who answers for them in the Legislative Assembly. Who do you nail when a crown corporation has gone wild? How do you rein them in? How do you rein in a bureaucrat? How do you rein in a crown corporation?" You make them answerable to a committee. That is why the crown corporations committee came to be born in British Columbia.

11:30 a.m.

It has been quite effective, although there was some criticism in 1982 that they did not meet as often and go after corporations as often as they should have; but they are very effective, particularly if there is an independent chairman as we have in British Columbia.

Mr. Chairman: You have some big crown corporations.

Mr. MacMinn: Intellectually, his posture is independent.

Mr. Rotenberg: He is a member of the Legislature.

Mr. MacMinn: He is a member of the Legislature and a member of the government party. He is a back-bencher.

Mr. Robinson: Is that Jack Kempf?

Mr. MacMinn: Jack Kempf, yes.

Mr. Robinson: How did I guess that?

Mr. Breaugh: We do not have any government back-benchers who are independent.

Mr. Chairman: How long does your Legislature sit?

Mr. MacMinn: How long?

Mr. Chairman: Yes. How long and how often?

Mr. MacMinn: It sits six months of the year. It sits in April, May, June, July--

Mr. Chairman: July?

Mr. MacMinn: It depends when it starts. They try to shut it down in the summer. It sits in the fall as well.

Mr. Chairman: Do you get paid per session?

Mr. MacMinn: Yes. It is an annual thing.

Mr. Chairman: It seems to me when Barrett was Premier they were paid in the spring and fall sessions. In other words, they got--

Mr. MacMinn: No, they changed that. When the New Democratic Party were in, they made it an annual thing. They made it a full-time job.

Mr. Edighoffer: There is one area I am wondering about. Mike Breaugh brought up the subject about your report and how you suggested that private members could be involved, for instance, in the election of the Speaker. He also asked what is the purpose of the Legislature. I suppose part of the purpose is for individual members to present their views.

We have a system of private members' afternoon to present our views. How do the private members out there participate other than in the 15-minute question period? Do you have anything such as they do in Ottawa for the 15-minute, 90-second session?

Mr. MacMinn: No, we don't, and that is why private members are constantly using the urgency debate thing. They are trying to get a motion on the floor to discuss a definite matter of urgent public importance and, of course, they fail because the rules are so tough on them. They introduce public bills in the hands of a private member. The bills are introduced by a back-bencher or a member of the opposition. That is another vehicle they use.

Mr. Edighoffer: They introduce it, but they never discuss it.

Mr. MacMinn: They introduce it but they very seldom get a chance to discuss it, although every private member who introduces a bill into the House gets a kick at that bill on second reading. There is no debate on first reading. On second reading that bill will be called.

Mr. Edighoffer: Every bill?

Mr. MacMinn: Just about every one gets called.

Mr. Edighoffer: What length of time are they given?

Mr. MacMinn: Ninety per cent of the bills are out of order on technical grounds in the hands of the private member, but by tradition in our House and practice, before the member is ruled out of order, he is given his minutes in court.

Mr. Edighoffer: How many minutes?

Mr. MacMinn: It is 10 or 15, unless somebody rises on a point of order before he has had his five, 10 or 15 minutes and says, "Mr. Speaker, I must bring to your attention section 416 or section 6. That obviously involves the expenditure of public funds and therefore it is out of order in the hands of a public member." If somebody draws the Speaker's attention to it, he must rule on it right away, but if no one does that, the private member gets his little kick at the thing.

We have had some private members' bills go for two or three hours on debate. They have been brought in by the NDP and have gone on for some considerable time.

Mr. Edighoffer: What cuts them off? Do they adjourn because time has run out for the day?

Mr. MacMinn: The government usually adjourns the debate on them if they are motherhood bills.

Mr. Rotenberg: And they are never seen again.

Mr. Edighoffer: So they are never voted on?

Mr. MacMinn: No.

Mr. Chairman: How many would you have in a year?

Mr. MacMinn: How many private bills introduced by private members? Twenty or 30. There are a lot of people who say they should be ruled out before they go on the Order Paper, that the Clerk should rule them out.

Mr. Rotenberg: One day a week usually where you have two private members, including government back-benchers, where the Thursday afternoon is divided in half and a private member has a bill or resolution which is debated and--

Mr. MacMinn: Do you give notice of that resolution?

Mr. Rotenberg: Yes. It has to have two weeks' notice so that is on the Order Paper for private members' day.

Mr. MacMinn: I like that idea.

Mr. Rotenberg: The odd one is ruled out of order because of its content, but very seldom. Usually we get down to the end of it. Very few of them get by second reading.

Mr. MacMinn: I should say resolutions too. Private members put resolutions on our Order Paper all the time, and those resolutions have a more precarious life than the bills do. They

sometimes really do not get dealt with.

Mr. Epp: Just one question: You said a minute ago that some people say the Clerk should rule some of these bills to be not acceptable. On what basis would they give a Clerk the responsibility or power to be able to say to a member, "I do not want your bill?"

Mr. MacMinn: He does that under the guidance of the Speaker. The Speaker has an authority under the parliamentary authorities to keep material that is not in order off the Order Paper. That has obviously got to be vested somewhere; otherwise scandalous stuff could be on the Order Paper.

Mr. Epp: So if it were to spend money or anything of this nature, he could rule that a private bill--

Mr. MacMinn: The Speaker has that and has delegated that in many Commonwealth jurisdictions to the principal Clerk.

What the Clerk does in practice is to go to the member and say: "Hey, look, this bill is in great shape except for section 4. Can you rework that some way so as not to offend?" There are no surprise attacks. The Clerk works with the members. His job is to try to polish their stuff and put it in shape so that it will pass the rules and, hopefully, will be judged on its merits. I do not mean there are any surprise attacks from any Clerks. That does not happen.

Mr. Edighoffer: What happens to the resolutions?

Mr. MacMinn: The resolutions go on the Order Paper and sometimes on the last day of the session, they will all be called. Sometimes they are not. Again there is a limited debate on them.

Mr. Chairman: How many members are there in the British Columbia House?

Mr. MacMinn: Fifty-seven; 26-31 is the distribution.

Mr. Chairman: What is the quorum?

Mr. MacMinn: Twenty.

Mr. Chairman: You mentioned that one of the problems with your estimates was in the committee of the whole; that there would only be three or four members there and that there would be a quorum call.

Mr. MacMinn: Yes. What happens in our Legislature when somebody says, "Mr. Speaker, I note there is not a quorum present," the Speaker rings the division bells and waits.

Mr. Chairman: There is just not that interest in the estimates debate?

Mr. MacMinn: Yes. It is telling us something, isn't it?

Mr. Chairman: Do they range widely, as we do, in policy mainly?

Mr. MacMinn: In estimates?

Mr. Chairman: Yes.

Mr. MacMinn: Yes, they do; on the minister's vote in particular.

Mr. Chairman: Like a new bridge in Prince George or something?

Mr. MacMinn: Yes. They are all over the place in estimates. The rule of relevancy is the most difficult rule to impose in the House; what is relevant.

Mr. Rotenberg: I can remember we had a situation in the estimates of the Ministry of Transportation and Communications where a member was discussing a traffic ticket the Ontario Provincial Police had given to one of his constituents. That is stretching the estimates a little far.

Mr. Epp: This may have been raised earlier before I came in, but what about the points of privilege? Do you have a lot of abuse of that?

Mr. MacMinn: Yes. Points of order and points of privilege are used to gain the floor all the time.

Mr. Epp: But points of order are little more difficult, because they arise as the business of the House is progressing, whereas with points of privilege someone knows beforehand whether they are going to raise one or not. Has there been any discussion as to how you are going to modernize that aspect? In some cases in Westminster, I think the Speaker knows ahead of time that someone is going to raise it and makes a decision.

Mr. MacMinn: We have matters of privilege being raised two or three times a week sometimes.

Mr. Epp: We get them two or three times a session.

Mr. MacMinn: Do you mean a sitting, two or three times a day, matters of privilege?

Mr. Epp: Yes. And that is before 2:15.

11:40 a.m.

Mr. MacMinn: We will have two or three a week of those requiring a formal Speaker's decision. There are other matters of privilege that people get up on and the Speaker says, "That is not a matter of privilege," and that ends the matter. But they will raise a formal matter of privilege in accordance with the rules and hand a written statement to Mr. Speaker.

Mr. Chairman: At what stage?

Mr. MacMinn: Usually at the opening of each session. If it is something that has arisen, it has to be brought up at the first opportunity. That is one of the rules.

Mr. Chairman: Probably in the morning paper, or something.

Mr. MacMinn: Something like that, yes. But it is abused.

Mr. Breaugh: You need a device, whatever it is called, in every parliament or legislature that I have ever seen. There has got to be a way that I can stand up and say, "I want to say this." It can be a point of privilege, it can be a point of order, it can be a private member's statement, it can be an interruption in the proceedings or it can be an emergency resolution. I do not care what you call it, something is going to emerge. You might just as well legitimize it and try to control it, because it is going to happen.

Mr. MacMinn: I agree with that.

Mr. Chairman: What about the change in Ottawa?

Mr. Breaugh: It seems to me the Ottawa proposal is about the most honest way of dealing with it because, really, it is a private member who wants to get up and say something. That is it. It seems to me they have called it by an appropriate name and they have controlled it by an appropriate time limit. If I cannot say in a minute or a minute and a half what I want to say--

Mr. MacMinn: Ninety seconds.

Mr. Breaugh: Yes.

Mr. MacMinn: That is what I was talking about with our question period. Ninety seconds is quite a long time, and if you think about it, you can say quite a bit in 90 seconds.

Mr. Breaugh: Our question period is a real bugbear. I do not quite fathom how we got this bad, but we are. The worst question period I have ever seen is in this House now.

Mr. Rotenberg: It is no worse than Ottawa.

Mr. Breaugh: Oh, I think it is. When people say the leaders get two leadoff questions, that is wrong. Each and every day there are 16 questions that centre on those supposed two leadoff questions because of all the supplementaries. We really have to do something about that.

Mr. Rotenberg: We have people asking a three- and four- and five-part question before they get to the supplementary. There are really two or three or four questions in the first question. Is that allowed?

Mr. MacMinn: No. One question at a time. If it gets complicated or multi-part, they say: "Put it on the Order Paper."

Give notice of it. Next."

Mr. Rotenberg: I think that probably more than anything else would maybe solve it. Every question should be a one-part question.

Mr. Charlton: That goes back to enforcement of the rules. I have spent three afternoons in the British Columbia House, and it is not a question of their rules being very much different from ours as they relate to question period; it is a question of enforcing the rules. For example, of the three afternoons I spent in the BC House, one afternoon was during the NDP administration and the other two have been during the Bennett administration. The questions are very short and succinct and so, too, are the answers.

I think there is no question that in our House quite often the preambles to questions get excessive, but I have seen that grow in response to the excessive answers from ministers.

Mr. Rotenberg: It is the chicken and the egg. From what Brian is saying, and I agree with him, it would seem to me it would be very difficult to devise a rule that would get us the BC system. But if you get a little bit of goodwill, if somehow or other we could get a consensus here and then a consensus in our caucuses that in effect we are going to go to the BC system of questions and answers and try it for a while without a change of rules, we might find that everybody would be happier.

Mr. Charlton: The other thing significant about the BC question period is--I do not know how often the leaders ask questions; in effect, you have only got one opposition leader to ask questions--on the three occasions I have been in the BC House, there have been no leader's questions.

Mr. Rotenberg: As I have said many times in this committee, it is up to you guys, the opposition parties, whether you want the leader to ask the question because from time to time the leader designates someone else. From the government's point of view, I think any way you want to handle those first two questions would be acceptable to us.

Mr. Chairman: I think you mentioned there was at least notice of questions in BC? What about that idea?

Mr. MacMinn: No. I am saying sometimes on a question that is going to be asked orally and requires a statistical or technical answer, as a matter of courtesy and to avoid the minister's taking it as notice--that he wants to get that answer in to his question--the member will tell him in the morning, "I am going to ask you this question in question period."

Mr. Rotenberg: Regarding the substance of the questions, are they, as they are supposed to be--this is a difficult judgement call--for eliciting information, or are they aimed at politically embarrassing the government?

Mr. MacMinn: I cannot answer that. I suppose you could

accomplish both at one time, couldn't you? You could be asking for embarrassing information.

Mr. Rotenberg: The point of question period, really, is it is a political situation on both sides of the House.

Mr. MacMinn: The motives behind a member, I have never looked at.

Mr. Epp: We cannot help it. There is so much embarrassing information we can ask. It is just there, and they keep on giving it to us.

Mr. Rotenberg: The problem is you try, but you never succeed in embarrassing the government.

Mr. Edighoffer: The supplementaries are limited to the question.

Mr. MacMinn: That is right.

Mr. Rotenberg: That is a point.

Mr. MacMinn: You cannot have a supplementary to a question taken on notice either.

Mr. Edighoffer: But then there is only one opposition party.

Mr. Rotenberg: Yes. What we have is somebody asks a question and somebody from the other party will ask a supplementary on the same topic.

Mr. Breaugh: It becomes mandatory. Because you can ask a supplementary, you really feel an obligation, "If they raise the issue, I must ask a question as well." You are sitting there saying, "My God," and it is a little ridiculous.

Mr. Chairman: This gentleman has to go to lunch some time today. I have just one question. Would you say or do you think, having viewed question period in British Columbia and probably some other jurisdictions, that a written question with notice would speed up question period and shorten the answer?

Mr. MacMinn: Probably, but you would lose the element of surprise.

Mr. Chairman: That is it, but the purpose of question period is to get information.

Mr. Edighoffer: In this time of restraint, that would be adding excessive expenditure in making civil servants prepare the answers.

Mr. Rotenberg: If I can take a moment on that point, Mr. Chairman, one jurisdiction I have looked at is the Israeli parliament, where all questions are written with notice and the parliamentary assistants or the equivalent to parliamentary

assistants do all the answering of questions, and you hardly get a quorum for question period because it is very cut and dried. The written question is on the Order Paper. The person answering the question stands up and gives a prepared statement for an answer, and nobody gives a damn because it loses all its flavour.

Mr. Charlton: The other tradition that can develop is the kind of tradition that has developed at Westminster where they all give notice of their questions, but the question has nothing to do with what they really want to ask. It just gets them on to the floor. The supplementaries change the topic, and away they go.

Question period is a time for the opposition to get information, sometimes because information is embarrassing, but ultimately to point out policy deficiencies in terms of government. That is the role of it. If you take away the ability of the opposition to use question period to surprise and embarrass, they will find another way to do it, which is what has happened at Westminster.

Mr. Hennessy: My question is, being a government back-bencher, we are worse off than the opposition. At least they have the opportunity of having their leader defer and they can ask the question. By the time it gets to us, with an hour of asking questions, you have to beg and hope the time does not run out.

In my position, I have opposition members surrounding or close to me. There may be a problem that arises in my area, but the opposition has the first shot at it. They are very sportsmanlike about it. They ask the question, then they ask a supplementary, then the other guy from the other opposition asks a supplementary, and I cannot ask the question when it is in my riding.

Mr. MacMinn: Members of the opposition in British Columbia are not given exclusive right to our question period. They are not permitted to exhaust their questions before back-benchers of the government are called upon.

Mr. Hennessy: Ours is the opposite. You just have to hope. You maybe have a better chance to win Wintario than ask a question. I am just saying this puts me in a very bad position because the people back home do not realize that you have to wait in line like a bread line until you get your chance, and you never get your chance because the opposition have both shots at it. They use them up, and then back home they say, "It is funny that Hennessy did not ask any questions on the same problem." You do not have the opportunity to ask, but you cannot explain. I am sure the opposition does not tell them what the problems are.

Mr. Chairman: You have to stand up, Mickey.

Mr. Hennessy: Stand up, all right, and get shot down.

Mr. Epp: Mr. Hennessy, quite honestly, you do have an advantage where the minister will get up and make a statement. For instance, I could draw something to the attention of the Minister of Municipal Affairs and Housing (Mr. Bennett) and he will not get

up and make a statement and say, "Look at the great work that Herb Epp from Waterloo North has done," but he will get up and make a statement and say to the high heavens how much Mickey Hennessy has done and, "He has drawn this to my attention and, if it was not for Mickey Hennessy, this problem would not be resolved," etc.

Mr. Hennessy: Do you want to know something? They do the same thing when they are burying you.

Mr. Edighoffer: Plus those cheques, Mickey.

Mr. Hennessy: When you go to a cemetery, the guy is always a good fellow.

Mr. Chairman: Mr. MacMinn, before you leave, I would just like to show our appreciation for your visit to Queen's Park. We appreciated all your information and appreciate your coming.

Mr. MacMinn: Thank you very much. I appreciate it.

Mr. Rotenberg: We are very pleased that you came and very impressed with your forthright answers. You have a knowledge of what goes on.

Mr. Chairman: I just hope it does not mean we cannot go out there; that's all.

Mr. MacMinn: Thank you very much.

Mr. Chairman: Have you a third report to bring along?

Mr. MacMinn: Yes, I do.

Mr. Chairman: Gentlemen, you know about our timetable for Ottawa.

Mr. Breaugh: I take it the hearings on agencies have all been postponed.

Mr. Chairman: Yes. When we are in Ottawa, be prepared to discuss the possibility of handling agencies some time in March or early April. I realize there was some objection to that, but we will get together in somebody's suite and see whether we can find three days in that six- or seven-week period. I am sure we can do that.

The committee adjourned at 11:52 a.m.

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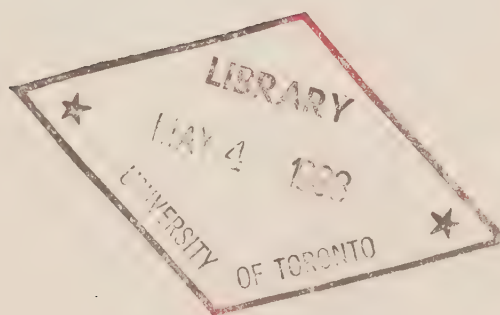
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

ORGANIZATION

THURSDAY, APRIL 28, 1983



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, April 28, 1983

The committee met at 10:20 a.m. in committee room 1.

ORGANIZATION

Clerk of the Committee: Honourable members, it is my duty to call upon you to elect a chairman.

Mr. McNeil: I would like to nominate Mr. Treleaven.

Clerk of the Committee: Are there any other nominations? There being no further nominations, I declare nominations--

Mr. Epp: I want to nominate Mr. Edighoffer.

Mr. Rotenberg: I second the motion.

Mr. Epp: I want to nominate Mr. Edighoffer. I think he would be a good, impartial chairman.

Clerk of the Committee: Are there any further nominations then?

Mr. Edighoffer: You cannot get a seconder.

Clerk of the Committee: Mr. McNeil has moved that Mr. Treleaven take the chair as chairman of the committee. Does that motion carry?

Mr. Epp: Just a minute. I made another motion that Mr. Edighoffer be the chairman and it has been duly seconded. You cannot ignore that.

Clerk of the Committee: The parliamentary procedure is that the question on the first person nominated is put first to the committee. If the majority of the people vote in favour of that person, that person is declared chairman of the committee. If the majority does not vote for that person, I then proceed to put the question on the second nomination.

Mr. Epp: In my parliamentary procedure we used to reverse these things.

Clerk of the Committee: Mr. McNeil has moved that Mr. Treleaven take the chair as chairman of the committee. All those in favour of the motion please raise their hands. All those opposed.

Motion agreed to.

Clerk of the Committee: I declare the motion carried and Mr. Treleaven the duly elected chairman of the committee.

Mr. Chairman: Thank you very much, gentlemen, for your less than unanimous support. I believe the procedure is to elect a vice-chairman for the committee.

Mr. Epp: I nominate Mr. Edighoffer as vice-chairman.

Mr. Chairman: I am afraid, gentlemen, that Mr. Epp did finish his sentence first.

Clerk of the Committee: Are there any other nominations?

Mr. Chairman: I understood by your previous procedure that we are going to vote upon the first person nominated.

Clerk of the Committee: You can receive other nominations, though.

Mr. Chairman: Are there any other nominations?

Mr. J. M. Johnson: I nominate Mr. Taylor.

Mr. Chairman: Are there any further nominations?

Mr. J. A. Taylor: I move that Jack Johnson be vice-chairman.

Mr. Chairman: There being no further nominations, we will vote upon Mr. Epp's motion nominating Mr. Edighoffer as vice-chairman. All those in favour please raise your hands. All those opposed please raise your hands.

Motion negatived.

Mr. Chairman: I will go to the second motion, Mr. Johnson's nomination of Mr. Taylor as vice-chairman. All those in favour please raise your hands. All those opposed.

Motion agreed to.

Mr. Chairman: Mr. Taylor is now the vice-chairman and therefore Mr. Taylor's motion of Mr. Johnson is redundant.

May I mention quickly that a number of us, probably even a majority on the committee, have a very important meeting at 11 o'clock. I know we are going to lose an awful lot of people if this meeting is not over by then, so I would aim for 11 o'clock.

May we proceed with the agenda? No. 3(a), reviews of agencies, boards and commissions. All we are going to do is decide if they are going to be the same ones that were not dealt with in February and, if so, when. By way of guidance, it is either going to be during this session to July or it is going to be part of our summer work from July to September.

Mr. Rotenberg: Mr. Chairman, I think we have always agreed that you cannot review an agency by having an hour or two

every Thursday. We have always done it when this House is not sitting so we could have three or four days together. Without setting the times specifically, I would suggest that we plan to do our ABC reviews during the summer recess.

Mr. Chairman: I see a consensus on that. Thank you. You have in front of you the five ABCs which were supposed to be heard last February but were postponed: the Law Society of Upper Canada, Ontario Manpower Commission, Ontario Status of Women Council, Criminal Injuries Compensation Board and Ontario Cancer Treatment and Research Foundation.

Mr. Charlton moves that the committee do the same agencies since they have been contacted and have done some preparation.

Mr. Rotenberg: I would concur. There is one comment I would like to make. In reviewing the Law Society of Upper Canada, I would hope that part of that review would include legal aid as well, because legal aid is a wholly-owned subsidiary of the law society. John, is legal aid part of your research?

Mr. Eichmanis: Yes.

Mr. Chairman: That was agreed to before by the law society.

Mr. J. A. Taylor: For those of us who have not had the benefit of sitting on this committee, I was wondering if you could explain the selection process used in determining what agencies, boards and commissions would be examined and what the criteria were in determining the list of five.

Mr. Chairman: I think I can answer that fairly easily. About six months ago, in preparation for the winter date, a list of maybe a dozen or 14 different agencies, boards and commissions was placed in front of us. We were asked, more or less, "Which ones do you wish to examine in this vote?"

Mr. J. A. Taylor: Fourteen out of how many?

Mr. Chairman: Three hundred plus.

Mr. J. A. Taylor: So the committee did not determine the 14 out of the 300 plus.

Mr. Chairman: No. The committee could have picked any other than the 14. That 14 was really placed in front of us by the researcher and the clerk, and then the committee simply took its four or five or six from that. You are quite correct, we could have gone further into any one of the 300.

Mr. J. A. Taylor: I am not suggesting you did, but there must have been some process that took place in terms of determining what 14 would be selected for consideration by the committee and then the process before the committee to determine which five of the 14 were put on the agenda.

Mr. Chairman: Perhaps the clerk could enlighten us.

Clerk of the Committee: What the researcher and I usually do is sit down and go over which agencies, boards and commissions the committee has done previously and then we take a look at what ones have not been reviewed from the list supplied by the executive council office.

On a number of occasions members have spoken either to John or to me and said, "Can you put this agency, board or commission on the list for consideration?" So that list included subjects that we thought the committee might be interested in and that members had expressed interest in. When we come to the committee, the committee has to make up its mind as to which agencies, boards or commissions it is going to review. We have the list from executive council office present so that any member can suggest any other ABC.

10:30 a.m.

Mr. J. A. Taylor: Yes, I understand that. I was just wondering if there were some well-defined criteria for the size, the frequency that they meet, perhaps the amount of funding, the functions.

Clerk of the Committee: The terms of reference of the committee set out which ABCs come under the scope of our studies.

The committee also has power "to review the operation of all agencies, boards and commissions to which the Lieutenant Governor in Council makes some or all of the appointments, and all corporations in which the Crown makes some or all of the appointments, and all corporations in which the Crown in right of Ontario is a majority shareholder."

Such review is to be made "with a view to reducing possible redundancy and overlapping".

Mr. Charlton: I just wanted to comment on what the clerk was saying. Basically, although he is correct that we were not restricted to the list of 14 or 15 that was brought to us, that list was brought on the basis of, first, agencies that this committee had not already looked at.

The staff will confirm that we also tried to stay away, I think, from agencies that in one way or another were being looked at by other committees, such as public accounts; agencies that were before one of the other committees on a policy matter; or agencies that were being looked at and dealt with by the government committee on agencies, boards and commissions.

Mr. J. A. Taylor: Yes, there were other committees. I believe Doug Wiseman, for one, was examining this at one time, and I think there was some focus on agencies, boards and commissions that might be candidates for elimination, if I could put it that way.

I do not want to prolong the discussion. I gather that the staff have done considerable work in terms of research so that the committee will be prepared to deal with these. I was wondering just what the criteria were and how these came to be.

Mr. Chairman: Is there another one in particular that you would like to see added to the list?

Mr. J. A. Taylor: No, Mr. Chairman, I have not even considered it. As a matter of fact, I would not be able to name the 300 or so agencies and I would not know what government expenditure was involved in terms of bankrolling these agencies, boards and commissions.

Mr. Rotenberg: The only other criteria we have tried to use, and it is sort of ad hocery, is that we try to get a variety, some small, some large, some from different disciplines of government each time, so that we spread it around.

There are different kinds of agencies in each review, which I think we have been doing since about 1979. Each time we try to get a spread of different kinds of agencies, large and small, and different disciplines.

Mr. J. A. Taylor: The last time I was involved in this process there were at least two committees or groups examining agencies, boards and commissions. There was some concern about the proliferation of ABCs. My first recommendation was to eliminate one of the committees examining these ABCs.

Mr. Chairman: I nod at Mr. Epp and he nods at me. I see a consensus for going with these five ABCs. Can we establish without dates whether we would prefer September over July to meet and examine these ABCs?

Mr. Charlton: Personally, I would prefer September since I already have my holidays booked in July.

Mr. Epp: My only reservation, and I am looking for some clarification on this, is that it may tie in with other aspects, such as part B, instructions relating to a budget for the 1983-84 fiscal year.

You recall that we had planned a trip to meet with the British Columbia Legislature last year and they have an election going on right now. We might be able to accommodate something of that nature. Alternatively, last year we were thinking of going to Washington.

I am just wondering to what extent there is any expectation that one of those visits may still materialize this year. If it does, when would that possibly occur? That may have a bearing on whether we decide to meet in July, September or August, or whenever it might be. Perhaps you could help me with that.

Mr. Chairman: I could see us agreeing, for example, that September is the best time to meet on the ABCs and that if we have a trip we would also have it in September and simply work one around the other, rather than messing up two months. So I do not see that this precludes a trip in September.

Mr. Rotenberg: Could we say that it would be after September? This is just an educated guess. Because we started this session late, we could go until the end of June or maybe into July, which means we may not come back until the middle of October. So the first couple of weeks in October may also be available to us. Do not say September; say after September or in October.

Mr. Chairman: But it is in the fall, keeping away from July and August. Is that fair enough? Is that the consensus? Mr. Watson?

Mr. Watson: Yes.

Mr. Chairman: Good. We find that as a consensus. Thank you.

Can we run through the quickie things next, a budget of our own for this fiscal year? As you know, every committee can do a supplementary budget, and often does, where you bring about a trip that you had not previously planned, where you have committees particularly involved or have members of the public coming. We can always supplement it.

Should we instruct the clerk at this point to draw up a draft budget or a first budget, and would it be fair to anticipate one four- or five-day trip in the fall, to at least budget for that? If we do not use it, fine, but at least we would have one in there so that any supplementary we went back for would be much less.

Mr. J. M. Johnson: Where?

Mr. Chairman: Oh, without saying where, just to budget one three- or four-day trip.

Mr. J. M. Johnson: You pick the farthest point on the map and then we can work backwards.

Mr. Epp: In fairness, we do not have to specifically allocate it, but the general idea would be that we could either visit Washington or Vancouver or Victoria, in mind with the kind of work that we are doing on this committee.

I think that this would be my expectation, as well as the expectation of the committee, because both of those have a considerable amount to offer from the standpoint of helping us make the kind of decisions on this committee with respect to procedures.

Mr. Chairman: Yes. The clerk could perhaps bring us in our tentative budget for each: one with a Washington trip and one with a Victoria trip. We can then make a decision. Would that be satisfactory?

Mr. McLean: Bring one in with both and we could just delete one.

Mr. Rotenberg: I think we should consider the possibility of going to one of those destinations some time in September or October, within this fiscal year, but taking the other trip some time next January or February during the winter recess.

Depending on how the Board of Internal Economy is going to look at this, as Mr. McLean says, perhaps we should draw up a budget possibly for three days in each location.

Mr. Chairman: Fair enough. So we put them both in. Where it is not used and we do not go, it is simply not used.

Mr. J. M. Johnson: Is that not the same budget as you had last year?

Mr. Rotenberg: We did not use it last year.

Mr. J. M. Johnson: If we were just to ask for the same budget as we had, with slight adjustments, there would be very little problem getting it through.

Mr. Chairman: Fine. So it is both of them in. That is the consensus. Thank you.

Is there someone to move this? Those transcripts with Hansard--does somebody wish to move that, unless otherwise ordered, a transcript of all committee hearings be made?

Mr. Charlton moves that, unless otherwise ordered, a transcript of all committee hearings be made.

Mr. Chairman: All in favour of Mr. Charlton's motion, please raise your hands. All those opposed? Carried. Thank you.

The one thing we have left here is a more contentious thing. I wrote something down so that I could get my thoughts straight. I believe that there is some desire for a genuine reform of the standing orders on both sides of the House, and I would like to have this committee gauge that desire so that we can spend the amount of time and effort consistent with the genuine desire there is.

Therefore, I would like to suggest, and see what you think, that this committee complete its first report as quickly as possible and ask the government House leader to place it in Orders and Notices for an early debate by the Legislature.

10:40 a.m.

I would suggest that this first report be short and have few reforms in it, for the sake of expediency. By this means we can gauge the seriousness of the Legislature and of all parties in the Legislature. The urgency with which the committee deals with further reforms really will be dictated by the urgency with which the Legislature and the parties deal with the first report. I think it is obvious. I do not have to really spell between the lines.

How do you feel about this? I would hope that the first report could be a matter of weeks. It would have some fairly noncontentious, fairly commonly desired things in it. We can come about with a quick report and then request a debate in the House.

Mr. Charlton: Mr. Chairman, I think it might be a useful process to pick a couple of areas to have a quick discussion of and to make some recommendations to the House on. In parallel with that, if you will recall, just before the Christmas break we had instructed the former chairman to consult with the House leaders and the party leaders about the whole question of the willingness to seriously get down to reform.

I do not know at what stage it is but I know, for example, that the House leaders have been consulting on the matter during the break period. Ideas have been exchanged in writing by the three House leaders. I know that simply because our House leader came to our caucus with a package of proposals which we discussed and which we chewed up a bit and amended and so on.

That process is under way, and I think it would be useful if at the same time as we are considering a short list package of reforms during this spring session, you were in a very serious way to follow up what was started with the House leaders and the three party leaders. As you suggest, if the commitments are not there, both on the part of the House leaders and the party leaders, we have some serious problems in terms of achieving reform.

Mr. Rotenberg: I would agree with Mr. Charlton. We have been through this exercise in this committee a number of times. Sometimes we have come up with a report and sometimes we have not. Sometimes our reports have just sort of died.

Procedure and House rules are among the most sensitive matters that the committee can bring to the House. Unless we have some prior understanding, not on details but at least on philosophy, with the House leaders and some prior understanding that certain matters are going to be carried through when we work out the details of the new rules, we may just be spinning wheels.

I would suggest, because the information you and I have is probably similar to Brian's, although our caucus is not quite as far along, that unless and until the House leaders have indicated they will be bringing forward some kind of an agreement on generalities of what is going to go through in the first report, we might be spinning the wheels a little bit.

I would suggest that either you, as the chairman of this committee, or one from each party follow up with his own House leader and find out where that is at and get some commitment as to what is going to be discussed or what matters will be carried through when we report. We can spend a lot of time trying to hammer out details in this committee and find out it just falls on deaf ears. I think we would be a little premature to start the report until we at least get some indication from the House leaders and also from the party leaders as to those matters we could fly when we report.

Mr. Chairman: Maybe I could expand upon that. I have been in touch with the one House leader. The House leaders are having a meeting next Tuesday, which I think they contemplate being the final one of about four meetings or perhaps five meetings. It is my understanding that they are going to have some sort of tentative understanding of potential subjects for debate and so on which will then go to all the caucuses. Then it will come to the committee. I believe this is the procedure that is going on.

I am in communication and have been in communication with people as to how it is coming along. I would not anticipate that coming to us until perhaps the third week from now. I would hope so. I do believe also from vibes that I have heard that it is also going to take some pushing in the three caucuses by ordinary members interested in reform, perhaps by members of this committee, to ensure the thing does keep proceeding.

Mr. Epp: Mr. Chairman, I am cognizant of what has been said, but I see this as a priority item as far as this committee is concerned. I am not sure what else is on the agenda but I would like to see us make this a major goal as far as this committee is concerned this spring, to accomplish some kind of reform with regard to procedures and rules of the House.

To that extent I wonder whether, if we come in with this report that you have suggested, it may not be perceived by the members as being just a little bit--not very much--us tinkering with a few things and whether, in fact, if you are going to try to gauge their interests, input, involvement and so forth, they may lose it before you ever get going.

I would much rather see us systematically go at this thing and say this is our top priority this spring. Let's meet with the House leaders. Let's find out exactly what they have in mind and let's tell them of our intentions, that we want to make this a top priority and see if we cannot accomplish as much as we can within the spring session.

The reason I say that is that we are now at about the mid-term mark between the last election and the next election. Although ideally this committee is probably the most nonpartisan committee, if there is one, nevertheless partisan politics tend to creep in from time to time.

Mr. Rotenberg: Not in this committee.

Mr. Epp: That being one of the realities of March 19, we should try to deal with these things as soon as possible. If we let them drag on, the election is coming up and people will say, "Let's leave it until the next term," and so forth. I just would like to get something accomplished. I know some people out there who are not on the committee feel that we really have not been wrestling with the problems the way we should have as a committee. I would like to see us do that this spring.

Let us have that as the goal, to accomplish something. If we do not get it done, let's forget about it. Let's really try to accomplish things by June 30 of this year and get some major changes made in the House. If we don't, they are going to drag on in the fall. We are going to make a couple of minor changes; then next spring again we are going to do a few things, or we may, and we are not going to get things accomplished the way they were accomplished in Ottawa.

I implore the committee, let's make this a top priority if we are going to do it at all. Otherwise, let's keep on nitpicking at it. If we are serious about what we want to do, let's make it the top priority of the committee and let's get together and do the thing in the next few months, even to the extent that we have to go away for a couple of days to thrash this thing out the way they did in Ottawa or whatever. Let's get the thing done.

Mr. J. M. Johnson: I agree with a lot of the comments Herb has made. I think it would be counterproductive if we did not work with the House leaders and our caucuses on it to get started.

You mentioned that they are having a meeting next Tuesday. I would suggest that possibly you, as chairman, and one member from each of the other parties meet with the House leaders some time in the next week or so. If not next Thursday certainly the Thursday after, maybe the House leaders could appear at one of our meetings. We could discuss the parameters and see what we can do within the framework and start working as Herb suggests.

There is no point in going off in a direction if the House leaders are going to drag us back. Let's get on side with them and see what they have in mind and see if we can start working on some of these things. Possibly two weeks from today we can meet with the House leaders and seek their approval.

Mr. Charlton: I was just going to comment along the same lines Mr. Epp did. I think your idea of a short-list test case might be useful if we cannot get a clear understanding from the House leaders. I am happy to hear that you have already made some contact. I think it would be useful if during the course of the next week or so you had a personal political chat with each of the House leaders about whether or not the will is there to proceed with changes and to see if you can get some kind of an indication of what areas they are prepared to move in so that we can take on a major task.

10:50 a.m.

I would prefer to see us take on the major task rather than nitpicking and to do a thorough job to try to deal with as many of the problems as we can in one package. Packages tend to be more saleable than individual items, especially when the standing orders are concerned. You get into the situation where every change in the standing orders has a different effect on government than it has on opposition, so we always end up with a tradeoff scenario. If the government is involved in losing something, it may be prepared to trade it off in return for something else. We have gone through this in every report we have done.

I think it would be useful to know what areas the House leaders are prepared to see us move in. Then we can do some work that will be dealt with as opposed to doing work that we feel is necessary but which they will just ignore.

Mr. Rotenberg: Despite what Mr. Epp says about this thing being probably the most nonpartisan committee--and I agree with him--Mr. Charlton makes a very good point that there are a lot of tradeoffs to be done and a lot of give and take.

One thing that impressed me from the three gentlemen who came down from the Ottawa committee was that they went behind closed doors and thrashed things out. I think a lot of things can be done in informal sessions, when things are not in Hansard, where members of this committee and House leaders can let their hair down and discuss the possibilities of a tradeoff without committing themselves and without pinning themselves in a corner.

We should consider what Ottawa did. We should have some informal and closed sessions so we can have a very frank exchange of opinions and take some tentative positions which do not go on the record. I think we can probably get a lot more done quickly. We should consider the committee having some closed sessions, or call it what you will, so we can get a lot more done.

Mr. Chairman: Fine. I forgot whose suggestion it was that we invite--Perhaps somebody wants to make it a motion that we invite the three House leaders to appear before the committee on May 12, 1983, to discuss the procedure. If they have a point at which they must come and talk to some external people, it will have the practical effect of moving them along in their own deliberations.

Mr. Edighoffer: The House leaders have been meeting and they are going to continue to meet.

Mr. Chairman: I understand they are going to have one final meeting next Tuesday.

Mr. Edighoffer: I hope you are right.

Mr. Rotenberg: They are going to have some kind of report for us, if they get the parameters, which I think--

Mr. Edighoffer: I would like to know for sure. What do they expect to do?

Mr. Chairman: They expect to have one final meeting and then have--do not take this as the actual wording--some sort of list of items in priority that can be dealt with. Some are more motherhood and some are more partisan, but they will have a list of things and then they will each go back to their caucuses.

If we have to have them in front of us, I believe that will speed up the list going to the caucuses. Otherwise, it may be weeks and dribble on. Well, I am not sure, I do not know now two

caucuses are but I know of one caucus. There could be some other priorities and we could be sitting here a month from today still awaiting that feedback from our caucuses. I understand it is only one more meeting, to iron out one final meeting.

Mr. Epp: Could I just speak to that?

Mr. Chairman: Yes.

Mr. Epp: I know what Jack wants to accomplish here and I am not opposed to it. I am just wondering whether doing that will really accomplish it. David was just talking a moment ago about tradeoffs and that it is nice not to have everything on the record. What you are going to do by bringing the leaders here is to put things on the record. I am just wondering whether you want to accomplish that in these early stages.

In other words, you are going to try to pin the leaders down on exactly what they want and they are going to be perceived as speaking for their caucuses. You are going to have Hansard here and you are going to almost get some kind of commitment. Then you are not going to--

Mr. J. M. Jonnson: No, instead of asking them what we can do, we should ask them what parameters we have. There is no point in us going off half-cocked thinking we can do something and having the House leaders in total disagreement with us. If we can get their blessing to proceed, then we can do something.

Mr. Epp: So you are going to talk about procedures rather than--

Mr. Chairman: We are also trying to catch their attention that the committee is serious. I think that is a signal that it is serious when we ask them to please come down and talk to us. If they are not interested in talking to us, then obviously they are not serious. I think we are trying to get a signal or a gauge.

Mr. Epp: The seriousness can be communicated quite honestly by us saying, "Look, we want to accomplish it this spring." If the House leaders are not serious, and if they reflect the seriousness of the leaders of the party and so forth--Let us be honest. The House leaders may want to do a lot of things, but if the leaders of the parties do not want to do anything or if their interests are elsewhere, then nothing much is going to happen.

Mr. Watson: What was the basis of that?

Mr. Chairman: You do not need to respond to that.

Mr. Epp: No, and I am not going to, Mr. Chairman.

Mr. Chairman: You really did not know what you were referring to anyway.

Mr. Epp: I did but he did not.

Mr. Rotenberg: Do you mean the House should meet in closed session. Is that what you are getting at?

Mr. Epp: If you are just going to talk about the parameters, it is not necessary to meet in closed session. If you are going to start trying tradeoffs, then of course you should.

Mr. J. M. Johnson: It is too early for tradeoffs.

Mr. Epp: May I make a motion?

Mr. Chairman: No, we have one on the floor. There is Mr. Johnson's motion that we invite the three House leaders to appear before us on May 12. That does not say what we are going to discuss. If that passes, Mr. Epp, you could make another motion following on from that.

Motion agreed to.

Mr. Epp: It could have been a supplementary motion or an amendment to it. I just want to go on record, and I think this committee should go on record, as indicating that the priority of this committee this spring will be to get some kind of resolution or make some major progress--and I emphasize major progress--with respect to the rules governing committees and the Legislature.

Mr. J. A. Taylor: Are you talking about a comprehensive report as opposed to a--

Mr. Epp: I am talking about an instalment plan type of report.

Mr. J. A. Taylor: A comprehensive one that will expedite the process.

Mr. Rotenberg: I agree with Mr. Epp. I think there is nothing on our plate for this spring session except procedure, and unless the House refers some matter of urgency to us--such as the committee in Ottawa dealing with Mr. Mackasey, which I doubt would happen in this House--the only thing that should be on our agenda until the House adjourns is procedure. That is all we should be dealing with this spring. I would agree that maybe we should, at some time before the end of the session, aim to have a report to go to the House.

Mr. Chairman: All those then in favour of Mr. Epp's statement of priority and intention please raise your hands. Opposed? Carried.

Mr. Chariton suggested that perhaps the chairman should contact the three House leaders individually to smell out the ground, so to speak, before the May 12 meeting. Is that the wish of the committee?

Mr. J. A. Taylor: The chairman can explore that.

Mr. Chairman: Yes, the chairman can explore that; fine. That is agreed.

Is there any other business before the meeting this morning? There is one more thing. Private bills legislation has been sitting on the books for three years. There is some serious need for reform of the private bills, but there is some thought that prior to changing around the private bills procedures, we should hear from various municipalities, and so on, and from legislative counsel. We should actually have people before us, making some suggestions as to how it be reformed. It gets into the municipal area as to how much notice and so on.

What is the desire of the committee on this?

Mr. Epp: My feeling on that is that it has already waited three years, I do not want it to wait any longer. Yet the other argument can be that if it has waited three years, then it could always wait a little longer. As long as it does not interfere with our main roles, as I just tried to outline, and that is to try to get these procedures and rules changed, if it does not interfere with that, then I think we can accommodate it.

Mr. Rotenberg: With respect, the private bills, what we are talking about, are part of the standing orders and part of our procedures. Most of us will remember we have already submitted a tentative report, which is still out there. We have made a lot of suggestions which are now being looked at by other people. Part of our job of revising our standing orders is that section on standing orders on private bills and we should proceed with it.

Mr. J. A. Taylor: Mr. Chairman, could I suggest that maybe in a preliminary way we have, at some stage that is suitable to the committee, the legislative counsel present to review the present situation--

Mr. Chairman: Two weeks from today?

Mr. J. A. Taylor: --and leave any delegations and so on?

Mr. Chairman: We will have the legislative clerk, Mr. Revell, in front of us two weeks from today. He can go on after the House leaders. We can get that out of the way. It is going to be several weeks after, even if we do decide to ask for witnesses.

Is there anything else to come before the committee?

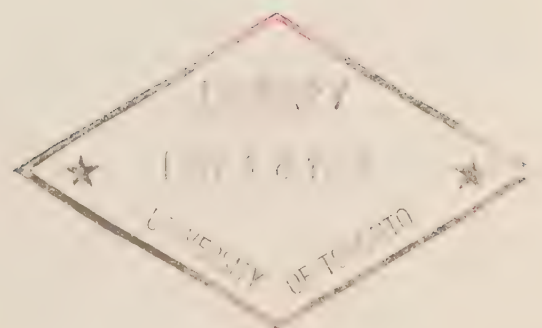
Mr. Epp: Are we not meeting next week?

Mr. Chairman: We are not meeting next week but two weeks from today at 10 o'clock.

The committee adjourned at 11:02 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF STANDING ORDERS AND PROCEDURES
THURSDAY, MAY 12, 1983



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Breaugh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

From the Ministry of the Attorney General:
Revell, D. L., Legislative Counsel
Stone, A. N., Senior Legislative Counsel

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, May 12, 1983

The committee met at 10:10 a.m. in room 228.

REVIEW OF STANDING ORDERS AND PROCEDURES

Mr. Chairman: Shall we call the meeting to order, seeing a quorum in place.

Might I say both the clerk and myself had anticipated Mr. Revell being here to deal with item 1 on the agenda. There may be a little confusion. Since he isn't, and Mr. Stone is here to deal with the second item, perhaps Mr. Stone could carry on.

May I point out for those of you who were as stupid as I was and looked in your folder for page 35a and couldn't find it, that was sent latterly to us by the clerk and he requested us to put it in our folders.

Can you find page 35a? Nobody but myself had any trouble. Right? We are starting off the right way.

Mr. Stone, would you carry on, please, with the question of the Speaker and the Deputy Speaker? Some of you will remember discussing some months ago the problems when the Speaker is not available and is a long way away. One of the things we discussed is, when an emergency is created, what are the capacities and responsibilities of the Deputy Speaker?

Mr. Stone: Mr. Chairman, the subject was discussed at the meeting of the committee towards the end of the last session. I had prepared a draft at that time. After the committee's discussion of the draft, it was apparent to me that I had taken the wrong approach. I was primarily concerned with defining, as between the Speaker and the Deputy Speaker, what the division of functions were. It seemed to me the committee was more concerned primarily with the validity of the Deputy Speaker's act qua the public. It was referred to me to try something else and come back. The pages referred to contain what I have done in the meantime.

The basic approach is to do as some other jurisdictions have done--British Columbia and the federal government--and that is to give the Deputy Speaker, as far as the act goes, all the powers and duties of the Speaker, so where he signs a warrant it is not a subject for challenge on the basis that he wasn't authorized.

That, basically, is contained in subsection 3 down near the bottom of the first page. In doing that, I ran into other, what are more or less drafting problems through the act in making that clear. That corresponds to the present provision in subsection 29(2). It bothered me that subsection 29(2) is in the context of subsection 1, which is speaking only of presiding at meetings of the assembly and having charge of the Office of the Assembly.

We want the deputy's wider powers to apply not only procedurally in the assembly, but for statutory duties as well.

As far as presiding over and having charge of the office is concerned, that is dealt with separately now, in section 98. We do not really want this general power to apply to that. I have had to rearrange the relevant bits of the act to make that clear.

Would it be useful, Mr. Chairman, if I just went through the paper?

Mr. Chairman: Yes.

Mr. Stone: It seems that there are three divisions of the Speaker's function, all of which require separate or different provisions for the deputy.

One involves powers under acts to perform powers. For example, this includes the issuance of warrants for election, for the attendance of witnesses, for production and other things, including committals for contempt.

The second is the function of the Speaker in the House for procedural purposes. That is now pretty well dealt with at length in the act and the standing orders. There is not really a problem with that.

The third is the administrative function of the Speaker as head of the Office of the Assembly: the office function. "Substitution for the Speaker in respect of the second function"--that is, the House procedures--"is provided for in sections 29 to 32 and no change in the practice is proposed." It is also dealt with in the standing orders.

"Substitution for the Speaker in respect of the third function"--that is, the administration of the Office of the Assembly--"may be made under section 98 and no change is proposed. The proposed amendments, therefore, are aimed at specifically authorizing the Deputy Speaker to perform any function of the Speaker under sections 1 to 70 of the act"--that just excludes the Office of the Assembly--"or under any other act by adding the following subsection to section 28".

We have now put what was really in subsection 29(2) in section 28, where the Deputy Speaker is created, in order to make it of general application.

"Every power and duty of the Speaker under this act, other than sections 71 to 99, or under any other act, may be exercised and performed by the Deputy Speaker."

Having put that in, we need to fix up section 29: "It is further proposed to confine section 29 to deal only with presiding at meetings of the assembly as the other statutory functions have been dealt with by the new subsection 28(3). Section 29 would therefore be rewritten as follows:

"29. The Speaker shall preside at all meetings of the Assembly."

That would exclude the reference to presiding over and having charge of the Office of the Assembly, which we proposed to add to the Office of the Assembly area of the act. That would then allow our new subsection 28(3) to also apply to the Speaker in the House.

To carry that out: "The reference in section 29(1) to the Speaker's function as head of the Office of the Assembly is moved from subsection 29(1) to become 73(2). The move is necessary so that the substitution of the Deputy Speaker would not be governed by subsection 28(3) but by section 98. Therefore, it is proposed to add to section 73 the following subsection:

"(2) The Speaker shall preside over and have charge of the Office of the Assembly."

That is basically all that is necessary, except that in looking at the actual instances where a Speaker is mentioned in the act, there are three provisions where the proposed substitution would not be consistent with the present wording. All three are instances where there is a procedure for the Speaker to issue a warrant for a by-election.

10:20 a.m.

The first one is section 20. It is preceded by the provision in section 19 that when a the notice of a member's intention to resign "has been entered upon the Journals, or after the receipt of the declaration ... the Speaker shall address his warrant under his hand and seal to the chief election officer for the issue of a writ".

That is straightforward enough, but then section 20 goes on to say that if there is no Speaker, "or the Speaker is absent from Ontario, or if the member is himself the Speaker," then two members can do the same thing. I assume that this section is to be retained.

I do not see why--if there is both a Speaker and a deputy, and the deputy can do whatever the Speaker can do--the deputy cannot act in this instance. I propose to amend that by striking out the words "there is then no Speaker, or the Speaker is absent from Ontario, or if the member is himself the Speaker" and substituting therefor "both the Speaker and the Deputy Speaker are absent from Ontario or are otherwise unable to act".

The other two instances are very similar. Section 22 deals with the fact that when the election of a person is declared void, the Speaker can again issue his warrant. However, "...if there is no Speaker or the Speaker is absent from Ontario or unable to act," the Clerk of the Assembly is authorized to issue the warrant.

We would amend that by striking out the words "or, if there is no Speaker or the Speaker is absent from Ontario or is unable to act," and substituting therefor: "or, if both the Speaker and the Deputy Speaker are absent from Ontario or otherwise unable to act".

The same situation occurs in subsection 25(2). That involves a vacancy in the assembly when a member dies or accepts an office.

Mr. Chairman: Mike, would you like to provide a little background? There are three new people on the committee who were not here when we discussed this five or six months ago. Would you or somebody else want to summarize our concerns--how this came about, sort of a thumb-nail sketch to lead some of these other people in?

Mr. Breaugh: I would think that the recommendations by Mr. Stone clarify the situation. The basic problem was simply that things were not terribly clear; the idea that anybody else could fulfil these functions in the absence of the Speaker had been challenged. This redrafting, it seems to me, clarifies the situation.

Even though we all assumed that in the absence of the Speaker there was a Deputy Speaker around who could perform certain functions, this had been challenged, and it was a concern of ours. It appeared to most of us at the time that we needed to do a little redrafting.

It was clearly our intention that if the Speaker was not here physically, somebody had to take charge of the building and the various processes, such as issuing a warrant or presiding over the chamber.

It seems to me that Mr. Stone's recommendations do that. I would move that we accept them.

Mr. J. A. Taylor: Does the Deputy Speaker have all the powers of the Speaker?

Mr. Breaugh: That was our assumption. We assumed that, and that had been challenged. It was not clear whether he did or did not, so there seems to be a need to clarify that in the act itself.

We had assumed, as you just did, that because he was Deputy Speaker--

Mr. J. A. Taylor: If he does not have those powers, what powers does he have?

Mr. Breaugh: It appears that they were at least challengeable.

Mr. Chairman: In the justice committee, I believe there were warrants issued. This was prior to the election of 1981. It was ambiguous enough that the question was brought up in divisional court whether he did have--and that is what we are trying to clean up and remove--

Mr. J. A. Taylor: Now he has. We are making it so that he does have it?

Mr. Chairman: Correct. Make it clear he does have it.

We have a motion, Mr. Breaugh. Any further discussion? You are looking in anticipation, Mr. Edighoffer.

Mr. Edighoffer: I would say that a lot of this, I suppose, came about because we had a very active clerk in a committee on a previous occasion when there was a different Deputy Speaker. I am looking right at Mr. Forsyth. He and the committee seemed to want to issue a lot of warrants at that time.

I recall the request for the judicial review came about because we had issued warrants for federal civil servants to appear before the committee. The members of the federal government decided to question that.

Mr. Chairman: Did it not also have something to do with the competence of the previous Deputy Speaker? Was that not an issue?

Mr. Edighoffer: I think there was something like that. Then the question was at the time that the Speaker was--

Mr. Breaugh: Get your cigar back.

Mr. J. A. Taylor: The record may not point out your humour, and I think that we all must agree that Hugh Edighoffer did a magnificent job as--

Mr. Breaugh: Oh, great stuff. Are you trying to imply this chairman has no humour?

Mr. J. A. Taylor: What I do not understand is, and maybe you can clarify it, are we simply saying that in the absence of the Speaker, the Deputy Speaker has the same duties and powers? Are we changing in any way the powers of the Speaker and Deputy Speaker?

Interjection: No.

Mr. J. A. Taylor: Are we adding to or detracting from?

Mr. Breaugh: I think it is reasonable to say that in our mind we are not changing.

Mr. J. A. Taylor: Excuse me. The reason my question was asked is that it was prompted by the remarks of Mr. Edighoffer in terms of Speaker's warrants to members of the federal House of Commons, I gather, and whether or not they had to obey those Speaker's warrants. Now that you are getting into substantive matters, I was wondering whether there was any clarification in terms of that.

Mr. Chairman: Mr. Stone, could you answer Mr. Taylor?

Mr. Stone: There is nothing in here that would affect the prime reason why they objected. I do not think they are subject to the law--it comes to what questions they have to answer in respect of federal business.

Mr. J. A. Taylor: So there are no substantive changes. It is just a question of clarification.

Mr. Stone: No, I do not believe that this changes what is existing practice or what is assumed to be the practice now. As you yourself started out to say, does the deputy not have all the powers of the Speaker? When you look at the detail of the act--it is a very old act and very piecemeal--I think when the issue was raised in court there was a very genuine reason under the act to say there is a lot of doubt.

Mr. Cassidy: I am just catching up here a bit. Does the Deputy Speaker, Mr. Stone, according to this amendment have-- How do you sort out the problem? If you give the Deputy Speaker power to act--obviously one assumes that the Speaker, being present or being accessible, would exercise the power to issue warrants for example--how is that sorted out in terms of the way that the amendment works?

Mr. Stone: This is a statute which is intended only to speak in so far as a change in the law is necessary. It does not resolve a dispute that might arise between the Speaker and the deputy as an internal matter.

10:30 a.m.

Mr. Cassidy: Perhaps I should go on then. I gather that the court challenge was around whether or not the Deputy Speaker was empowered to issue a warrant. I presume the reason the Deputy Speaker did it was that the Speaker happened to be unavailable at the time. Is that possibly an error which could be cause for further challenge in the case that somebody who, very basically, did not want a warrant exercised on him decided to find a loophole? In that case is it not possible to word these matters in such a way that it becomes clear? The Deputy Speaker has the power to act for the Speaker, but in certain circumstances or in general should only do so in the physical absence of the Speaker.

Mr. Stone: That would throw us back into the uncertainty of whether or not it qualifies. I think the present difficulty is created partly by subsection 29(2), which says, "in the absence of the Speaker." What does that mean? Any determined litigant might say it is not enough to be absent from Toronto. Maybe he was in Florida, and they could have got him. He is not really absent. That is very uncertain, and we have to try to remove that uncertainty as far as the effect on outside people is concerned, but internally the Speaker and the deputy have to work that out in their own reality of practical politics.

Mr. Watson: From a practical standpoint, can you tell me how the Office of the Lieutenant Governor works? When does the Chief Justice get to act as the Lieutenant Governor? I understand that the Chief Justice fills in when the Lieutenant Governor cannot, as we did in the proroguing ceremony?

Mr. Stone: I am afraid I am not very knowledgeable about that. My impression is that when the principal is absent from Ontario.

Clerk of the Committee: We had to check that out for prorogation in February. The Chief Justice of Ontario has a commission from the federal cabinet to act in the absence, illness or other inability of the Lieutenant Governor. If the Lieutenant Governor is unable to act because he is receiving a group in his suite, or somewhere like this, the Chief Justice, acting as administrator, is able to do royal assent or some other function on the Lieutenant Governor's behalf. It is quite a wide-open thing.

Mr. Watson: I see it. In my mind I see a comparison here. You have two people in authority, not symbolic authority, but on the other hand they are not acting alone, so they have a considerable amount of advisers. I have heard, for instance, if the Lieutenant Governor happens to be in Ottawa, and there is something that needs to go on in Toronto, that the Lieutenant Governor arranges to go to Quebec for supper, so that he does not have to.

Clerk of the Committee: We thought that was the case up until we checked in February, and we have got all the commissions now. If he is absent or ill or just unable to act, the Chief Justice can act on his behalf.

Mr. Watson: Is that not the kind of thing that we are trying to put in here?

Mr. Stone: Mr. Forsyth, is that in a statute or in the commission?

Clerk of the Committee: In his commission.

Mr. Stone: So it does not affect, as far as the public is concerned, his absence.

Clerk of the Committee: If you will pardon me, Mr. Stone, I believe it is also in the Constitution Act, 1867. It seems to me, now that I am thinking of it, there is a section dealing with that.

Mr. J. A. Taylor: The British North America Act?

Clerk of the Committee: As it used to be called.

Mr. Watson: That may confuse the issue more than solve it, but I see a type of comparison there, where one person who is delegated and expected to act is unavailable someone else takes over. There may be a system there, if that one is recognized, where we could use the same one for the Speaker and Deputy Speaker.

Mr. Chairman: I do not think what we are trying to do is define the word "absent." I do not believe we are trying to do that. We are simply trying to clarify the issue that the Deputy Speaker is vested and does have appropriate powers in the absence of the Speaker. We are leaving alone this this definition of the word "absent." Whether it's five miles or 5,000 miles, that's still left open.

Mr. J. A. Taylor: Or for what reason.

Mr. Eichmanis: Surely the whole question becomes irrelevant if he is absent or not. You go around that phrase "in the absence of the Speaker" by having that section that Mr. Stone proposed, number 3, "every power and duty of the Speaker under this act," etc. You just work around that whole question of whether he is absent or not by giving him the general powers of the Speaker. Therefore, whether he is absent or not is immaterial as far as those powers are concerned.

As Mr. Stone indicated, the question of absence is then decided, I suppose, really between the Deputy Speaker and the Speaker.

Mr. J. A. Taylor: It's whoever is present in the chair.

Mr. Eichmanis: Yes.

Mr. Chairman: It was the power before, not the absence, that was questioned in the divisional court. It was the question of his powers, not the absence. That's the issue we are addressing ourselves to. Is that not correct, Mr. Stone?

Mr. Stone: I would have to look at the case to see.

Mr. Chairman: Mr. Edighoffer is nodding, for the record.

Mr. J. A. Taylor: Vertically or horizontally?

Mr. Chairman: Is there any further discussion? Mr. Breaugh has a motion on the floor.

If not, all those in favour of the motion, please raise your hands.

Motion agreed to.

Mr. Chairman: Thank you, Mr. Stone.

Mr. J. A. Taylor: Being one of the neophyte members on the committee, I was wondering if that area had been approached that dealt with the problems posed in regard to the Speaker's authority and also members' privileges. I was thinking of the Jack Riddell situation. Is that something that touches on the rules at all?

Mr. Breaugh: Elaborate a little bit.

Mr. J. A. Taylor: It started off in terms of service on members in areas that were billed as being under the jurisdiction of the Speaker.

Mr. Breaugh: I see what you mean. We have dealt with that before. I don't think there is any resolution to it yet. The committee generally held that the Speaker should clearly be in charge of all of what we know as the assembly instead of having it divided up between being partly under the control of the Speaker and partly under the control of the Minister of--

Mr. Chairman: Government Services.

Mr. Breagh: --Government Services. I don't believe there has been a resolution of that.

Mr. J. A. Taylor: I am sure my comments really are not apropos of what we have heard anyway because we were just talking about the Deputy Speaker having the same powers as the Speaker.

Mr. Chairman: Thank you, Mr. Stone, for your assistance. I think the fact that it was unanimously passed is your confirmation of your work. Thank you.

Mr. Revell. Page 64 in your folders, gentlemen. This is the question of private bills. Could you give us a thumbnail sketch of the problems with private bills in the past and the complaints we have had or the problems we are into and why this has come about for a revision?

Mr. Revell: Thank you for inviting me down, Mr. Chairman. I must say that Mr. Forsyth's summary that appears in your books is an incredible summary. He says in four pages what it took me about 14 pages to say in a paper I have just submitted to Dennis Hefferon at York University Osgoode Hall Law School, and it's accurate.

Mr. Chairman: Incredible? Does that mean it lacks in credibility?

10:40 a.m.

Mr. J. A. Taylor: Is it clear though?

Mr. Revell: It is clear.

Mr. J. A. Taylor: And also succinct.

Mr. Revell: The second comment I would like to make is I know there is an existing report of a predecessor of this committee dealing with some technical reforms to the rules of procedure related to private bills. I would not like to see those changes held up as a result of my suggestions that come about as a result of my writing this particular paper. The two issues are really independent--the amendments that have already been suggested and adopted by a predecessor of this committee and which were reported to the House but never adopted.

Just to start out, there are a number of issues with respect to private bills that cause me some concern. I have been the counsel on private bill legislation since 1977. Since that time I have probably reviewed approximately 50 private bill applications per year, of which approximately 35 came before the House every year and of which approximately 30 or 31 were, in fact, enacted. So I think I have a fair experience with the system now. Some of these problems that I have come up against are ones that I think are of real concern.

The first one that I would note is that there is very little material submitted with private bill applications. A number of the people present in this room, of course, have been involved with private bills, sponsoring them for their constituents.

I am sure that in many cases the only thing that the private member has received is a copy of the bill--first of all, they receive a letter from the applicant saying: "Would you please sponsor an act respecting the city of Chatham or an act respecting the Good Hope Foundation" or whatever. Then several weeks later mysteriously they receive a copy of the private bill with the introduction slip from the Clerk's office.

In many cases that may be virtually all that the particular member who is sponsoring the bill may know about it, depending of course how many questions he has asked. That is a legitimate sort of thing, I guess, because in sponsoring--

Mr. Chairman: Excuse me, may I interrupt just for a moment? Mr. Revell, just for the sake of the committee, at the very end of the last sittings of the justice committee we had an excellent example of that. Mr. Williams came in sponsoring a private bill that looked like a simple reviver. All of a sudden, thank goodness, through Mr. Renwick's experienced inquiring, we found that there was mental incompetence involved. The major shareholder in the corporation was a mental incompetent.

It was a family matter with the control--it was just a mess that came out. It had got by the legislative offices, it had got by Mr. Revell's estate bill, it had gone by everybody, so this is an excellent example. We, in fact, in the justice committee held it up for further report. We would not put it through.

Mr. Revell: That bill will be considered probably in the next session or in this present session.

Mr. Chairman: The facts that came out through questioning were a total surprise to everybody in the room.

Mr. Revell: At any rate, I was just saying that this lack of information in terms of the member may be justified, I think, on the basis that a private member, in sponsoring a bill, is not really saying that this is a good bill or a bad bill. What he is really doing is lending his name to the application so it can come before the House. There is no other way that a person outside the precincts of the House can get up in there and say, "I would like this bill considered." It has to be done through a member.

A member in sponsoring a bill is not saying it is good, bad or indifferent. What he is really saying is, "I agree to lend my name so that you can make your own case before the standing committee that considers the bill."

Is that good enough--not from the private member's point of view, necessarily, but from the committee's point of view and everybody who is involved in the process? My simple answer to that would be no.

Often what I receive is a draft bill from the Clerk's office. On that basis I have to start doing spade work by phoning the applicants, arranging meetings and so on. It is not until I get people actually in front of me that I really know very much about what is going on.

It is very helpful, as you are all aware, to have some background information before you get to a meeting, if you are going to be discussing the drafting of a bill. Now I have found over the years that applicants are more than willing to discuss their private bill with legislative counsel, and my predecessors as private bills counsel have also found that the applicants are quite willing to discuss the bill.

Still, discussion is a matter that ends up in legislative counsel file, it does not end up in the public files. Therefore, all a person who is going to be potentially affected by an application for private legislation has is the notice that appears in the Ontario Gazette or in the local newspaper.

Quite frequently, while the ads comply with the requirement under the standing orders that they state the nature and purpose of the application, I really question how helpful that is sometimes when you get three or four lines of English that, while they tell you the nature and purpose, set out no background to the reason for the application and things like alternatives, impact, and so on.

While the applicant has to consult with legislative counsel, or will consult with legislative counsel voluntarily, as I say, it does not get into the public's hands and anybody who is affected comes down to find out what is really going on. Until the private bill itself has been filed in the Clerk's office, the only thing they have is the notice.

I would like to see more information made available. I would like to just read from my paper with respect to the criticisms that I have in this area. I think it sets it out quite succinctly.

"There is no provision in the standing orders requiring applicants for private legislation to file background materials, such as staff studies on the necessity for the legislation, or on the impact of the legislation. Furthermore, there is no requirement that opponents must submit a brief outlining the nature of their objections. There is nothing to prevent such filings, but without a positive requirement, few applicants or opponents file any material prior to the committee hearing.

"By way of comparison, in England an applicant must present a petition in support of an application for special legislation, and opponents must file petitions setting out the nature of their opposition.

"Because of this failure to file relevant information in advance, it may be difficult for legislative counsel to advise on the drafting of legislation, for government staff to develop a government position on the legislation, and for committee members to prepare for the hearing."

Of the first two elements I mentioned, I have already covered legislative counsel by saying, yes, the applicants will come forward voluntarily and discuss it with you, but how does the committee itself prepare? I know that probably most members are burdened with paper already and yet in the years that I have been sitting in on committees I have been impressed by the amount of work that has been done by committee members before they appear, if there is material for them to work with.

I think that is a key issue, allowing the members to prepare themselves. The other side of it is, of course, that if there is nothing on file, then the applicants or opponents cannot brief themselves with respect to the other side's case.

I have already covered the issue of legislative counsel and the fact that most applicants consult voluntarily with the government departments.

"Few staff studies are made available by the applicants, and hence the file in the Clerk's office is of little or no use to an opponent. Likewise, the failure to require the filing of opponents' briefs means that the file is of little or no use to the applicant. Under the standing orders a compendium of background information must be tabled in the House by the government when it introduces a government bill. A similar provision should apply to applicants for and opponents of private bills."

There is probably some controversy about the adequacy of compendia. Some of them are very thorough. Some of them, I assume, are not so thorough.

Mr. Cassidy: More the latter than the former.

Mr. Revell: I am afraid I cannot address that particular issue thoroughly, but I still think that something is better than nothing. I would like to see it say more information, just so the opponents can prepare themselves, and come back to the formal proposals. In fact, Smirle has them set out in the pages he has outlined before, 64 to 67 of your books.

10:50 a.m.

The second criticism relates to the lack of timing restrictions under the standing orders. As noted above, it is possible for a private bill to be considered within less than two months of the publication--sorry, you did not have that noted above; this is an extract from the paper.

"It is possible at the present time for a private bill to be considered within less than two months of the first ad appearing in the Ontario Gazette." That is four weeks of notice, an additional five days after first reading. I would say that some private bills can come on within less than six weeks of the time that the first notice appears in the Ontario Gazette.

"This may, in some cases, be insufficient time for a thorough review of the application by persons who may be affected by the publication. While a hearing may be adjourned at the request of an objector, a potential objector may not have adequate time to determine whether or not an objection should be filed. The problem is compounded by the lack of background information on the clerk's files", which we just discussed a minute ago.

"Furthermore, there is no restriction on the time within which an opponent must give notice of an objection and, in fact, the opponent need give no notice."

I will give you an example of that. In the January session of the House, the certified public accountants applied for private legislation authorizing themselves to have the exclusive use of the designation of certified public accountant. There were two or three objectors to the bill.

When it came to the committee stage there was a request for an adjournment, to which the applicants agreed, but the applicants' solicitor, Mendel Green, asked for a written summary of the objections that were going to be made at the resumed hearing. They never received that.

We had a hearing that went on for two and a half or three hours. It really came down to a matter of the objectors wanting two minor amendments to the bill. They wanted the words "or audits" removed everywhere it said "matters related to accounting and auditing." It looked like the certified public accountants were moving in on the chartered accountants' preserves.

If the objections had been set out--not just a letter to the clerk saying, "We object; please let us come to the hearing," but a letter saying, "We object to this bill because it appears that it is going to be allowing certified public accountants to become auditors"--perhaps the applicant would have said: "Maybe we are overreaching a bit here. Let us amend it now. We will advise the clerk that we are agreeable to the amendments," and so on.

It would have cut a two-and-a-half- to three-hour hearing down to 15 or 20 minutes, because nobody, except for one person, was objecting. There was one objector, as I recall, who said that the bill should not go through at all. The rest were agreeable, but if the bill was going to go through, the words "or auditor" should be removed. At least, it would have narrowed the issues down quite considerably for the committee's consideration.

"An objector may simply appear at the hearing and request an opportunity to be heard." There is no requirement that they even file an objection. I think we have had instances of that.

Mr. Rotenberg can probably remember many instances where objectors have shown up on municipal private bills and neither the applicants nor the clerk's office--and hence the rest of the committee--were aware of the fact that there was an objection coming.

My comment on this was that "this leads to a potential for surprise at a private bill hearing that would be unacceptable before a court and many administrative tribunals." I think that anybody who has been involved with the legal processes is aware that the "Perry Mason surprise witness" sort of thing is really a no-no in our legal system. People are expected to be able to know the case they have to meet.

I would not wish to increase the complexity of the private bills procedure significantly. I think that our procedures in Ontario are relatively informal and relatively cost-efficient from everybody's point of view. They work well.

However, I think there should be some changes in the procedures. Mr. Forsyth has set them out, beginning at page 65 of the materials.

"The applicant for a private bill should be required to deposit with the Clerk of the House, within one week of the first notice appearing in the Ontario Gazette, a copy of the draft bill and a compendium of background information explaining the need for the legislation, the alternatives that have been considered and the impact of the proposed legislation."

I haven't thought out all the ramifications and details of this. I am going to be quite blunt about that. It would seem rather silly in some private bills where the bill itself is completely self-explanatory.

We have a good example right now. There is an application under way to remove a cloud from somebody's title. It's one of those areas where the law is cloudy and murky. There is certainly a cloud on the person's title.

The bill will remove it. The preamble fully sets out the details of the matter. It would seem rather silly to have somebody sitting down and writing another piece of paper to explain the whole thing over again.

Mr. Cassidy: Wouldn't that be taken care of by a covering note which simply says that "the purpose and intent of this bill is self-explanatory as explained in the explanatory notes"?

Mr. Revell: Yes, I think so.

Mr. Cassidy: In other words, you would still have a compendium, even though it would be, in effect, a formality.

Mr. Revell: Yes, but as I say, I haven't figured out the ramifications of how much detail might be required. I think there still has to be something.

In the case of a municipal private bill--and I was speaking to Mr. Stone about this yesterday--and maybe on all private bills, this information should not only be filed with the Clerk of the House, but the applicants should make it available at their offices.

I refer specifically to municipal private bills here, because there is a procedure for municipal clerks filing documents. They become official records of the municipality. There is a provision for the clerk being required to produce those on demand for anybody who wants to see particular files. There is a list of things the clerk must produce on request, which is set out in the Municipal Act.

There is no reason why these documents shouldn't be available at the offices, whether the applicant is going to be represented by a parliamentary agent, if it's a corporation, or whatever.

You take filing something here in Toronto, where the application affects a small corporation or even a medium-sized one up in northern Ontario. It means the official record is in Toronto, yet everybody who is affected by it is literally hundreds of miles away from the building.

Mr. Rotenberg: You would have advertisements in the local paper.

Mr. Revell: The advertisement is in the local paper, but I am suggesting that we need more than just a notice requirement. I think there should be a requirement for background information.

Mr. Rotenberg: In the notice?

Mr. Revell: No, a separate filing of information, much like a compendium, that the government is required to submit.

Mr. Cassidy: That could be in the advertisement and it could be then kept on file in either the corporate office of the organization--

Mr. Revell: Yes.

Mr. Cassidy: --or perhaps, if it was a volunteer organization that doesn't have a headquarters, in the hands of the lawyer who has been making the application.

Mr. Revell: Yes. Most people are represented by parliamentary agents. Very few applicants come before the House representing themselves. It would not be a great inconvenience, I don't think.

Because the bill, at this early stage, really hasn't been through the legislative counsel mill, I would go one step further. I think that any bill submitted to the clerk at the outset--in fact, until the bill is final--should be clearly marked to say that it is a draft bill and that it is subject to change before first reading. Anybody who has an interest in the file is going to be tipped off that he or she should keep abreast of what is going on with the file.

Anybody who has been involved with private bills, who has received a first draft from a constituent and then seen it after it has gone through our office, after consultations with the ministries, knows that while the bill has the same purpose and effect, it may appear in very different form. Most applicants are not professional legislative draftsmen. In fact, none of them are. That's one thing.

The second thing is that the procedures of the House are very efficient. It is not spelled out that every private bill will be circulated to the government ministries, but that has been done since time immemorial. In many cases--and I find this particularly with the Ministry of Municipal Affairs and Housing--the comments that come back are first-class. The applicant says, "Holy cow, there is something we didn't address our minds to." The staff involvement from the government has been most helpful, I think, in clarifying the drafting of legislation.

11 a.m.

As I say, the draft bill that is submitted by the applicant should say, "This is a draft and it is subject to further revisions." I would say that if you do not comply with these new rules--for example, now do you enforce filing within one week of the first notice?--I guess that leads to additional fees or time delays in actually allowing the bill to receive first reading.

The second thing I would like to suggest is that persons wishing to oppose a private bill should be given 15 days from the day of first reading to file with the Clerk of the House a notice of objection to the bill. Why 15 days after first reading and why not before first reading? That is the problem. The bill is not final until it is given first reading. That is when it becomes official. Once it becomes official, people should be allowed some time to take a look at that official draft and then submit their objections.

When an objection is filed, I think particulars of the objection should be set out. I have already dealt with that particular problem. This might be the most controversial suggestion, namely, that the provision should apply to both the public and to ministries of the crown. I have not consulted with any ministries of the crown on saying, "Let us make this binding on the crown." These are my personal views, but I do think that there is no reason why the same requirements cannot apply to ministries of the crown as would apply to the general public when they have an objection to a bill.

In fact, I would say in 99.9999 per cent of the cases, the ministries have, either through letters to myself, which are then sent on to the applicant, or with direct consultation with the applicant, had advisement. Very few applicants are taken by surprise.

Mr. Rotenberg: That is usually before first reading.

Mr. Revell: That is usually before first reading. In fact, long before first reading various ministeries have commented on the bill.

Mr. Watson: How do you mean "make it binding on the crown"?

Mr. Revell: When I say binding on the crown, under the standing orders, if a ministry wants to appear before a committee to object to a private bill, there is no reason why it cannot give the same kind of notice that everybody else does, saying, "These are our objections to this particular private bill." Then it is a matter of the public records so that everybody will know ahead of time what is going to be happening.

I can see a couple of advantages in this. First of all, when it comes time for the chairman of the committee and the clerk of the committee to get down to scheduling private bill hearings, it is going to mean that, "Gee, there are 15 objections to this bill"

Mr. Rotenberg: No way.

Mr. Revell: It is a suggestion, Mr. Rotenberg. It is an idea that will allow for more efficient use of the committee's time by knowing whether or not one particular bill looks as if it is going to take more time than other particular bills.

Mr. Watson: Is this a big problem? You said it has been working very well.

Mr. Revell: Is which a big problem?

Mr. Watson: The fact that official notice is not given that the ministry is going to object.

Mr. Revell: Yes, I think there has been a problem. There have been a number of times when the extent of the objections was just not known ahead of time and it has led to--

Mr. Watson: I would not want to be part of a system where, if we were discussing a part of a bill and somebody came in, the chairman said, "We are not going to hear you because you did not have your objections filed five days ago."

Mr. Revell: I think that you do have to leave--

Mr. Watson: Am I way off base or is that not what you are saying?

Mr. Rotenberg: You are 112 per cent right. You are getting into what we call efficiency and you cannot give up efficiency for democracy. Maybe it is my training in municipal politics, but when you have a private bill which you have advertised saying to the folks out there, "Oshkosh is bringing in a private bill and it is going to be heard on February 22 in a committee", there is no way, in my opinion, you can have a rule that says to the citizen of the town who walks in this door,

knowing there is a hearing and says, "Mr. Chairman, I want to object and I want to talk about it," "No, you did not file an objection five days ago." There is no way, in my opinion, you can have that rule, let alone allowing the committee to relax it in certain cases but not on every case.

I think it is advisable when we advertise or whatever to say to the public that notice of objections will be received, and if they want to give their objections ahead of time, we can encourage this thing to happen. I certainly would not be in favour of putting in the standing orders anything which prevents a person, in effect, from walking in off the street and objecting to a bill. If it's going to take a committee another half hour, fine.

Andy, in answer to your question, I have been handling private bills in this committee for the last three or four years. The one that probably took the most time was the Brantford bill, which was quite controversial. A lot of different groups came in. There may have been some advantages if they had filed some things ahead of time. We took all day and part of an evening on that bill. We took a lot of time on it. A lot of people were affected and they came in. I just can't see, with respect, any way we can write a rule which says those people have to object in advance.

Some people come neutral and hear the applicant's presentation and suddenly trigger to something they didn't know was in the bill. Your objectors are not nearly as professional as your proponents of the bill. People have a right to listen and say, "I object to that." I just can't see any reason to cut that off by changing the rules in the fashion you want to. That's my opinion. Others may disagree with me.

Mr. Revell: I do tend to agree with you. One of my further paragraphs says, "except with the leave of the committee" and "only those objectors who have complied."

I think that here you have a matter of form and substance. I agree with you that probably in all cases where an objector turns up at the last minute they are going to allow him to be heard. On the other hand, I would think that most opponents will comply with the standing order if they see it before them as a requirement of the House.

Just to give you an example, most opponents before the Ontario Municipal Board in submitting briefs comply. Yet the OMB, as far as I know, has the discretion where objectors turn up out of the blue to hear those objectors.

Mr. Rotenberg: To use Jim Taylor's expression, if it ain't broke, don't fix it. In the years I have been doing private bills there has never really been a problem of people objecting. We do, as you say, have a somewhat informal process. I just can't see it, I'm sorry.

Mr. Cassidy: I think the mechanics perhaps need to be reviewed a bit. Right now there is no provision in the standing orders saying exactly when first reading of the bill can take place.

Mr. Revell: That's right.

Mr. Cassidy: In fact, from my reading of the standing orders it is quite possible to have the first reading of a private bill at the same time that the first ad appears in the Ontario Gazette, although you can't refer it to a committee until it has been advertised four times. I think we probably need to look at that and say that maybe it's a six-week period during which objections can be filed. If you want to go that way, date it from the first advertisement in the Ontario Gazette and the local newspaper.

Mr. Revell: Actually, I disagree with your interpretation of that particular standing order. The thing is circular. What happens under the standing orders is that it says no private bill may be referred to a standing committee unless the advertising has been completed. Curiously enough, it says every private bill stands referred to a standing committee on first reading. You've got a chicken and egg going around.

Mr. Cassidy: I see, yes.

Mr. Revell: I would submit that until you have complied with the standing orders, because it's the first reading that triggers referral, you just can't do it. In fact, and Mr. Forsyth can confirm this, in every case where there has been permission for that sort of thing to happen--Brantford was one example but we have had others over the years where the standing orders have been waived. There is a special provision in the standing orders for waiving the procedural requirements and there have been a number of cases where this has happened.

A good example was down in St. Catharines where the election was coming up, and because of the automatic triggering of review and changing of the school boards, there was a change in the representation of various communities down in the Niagara region on the regional school board. All the municipalities agreed, "No, we want to keep the existing structure for another two years." It was coming up on the election very quickly and the standing orders were waived. They only advertised once, I think. It was referred to committee, and even though four weeks had not passed, the matter was allowed to proceed into committee. It was considered and dealt with long before four weeks passed by.

Mr. Cassidy: I understand that is always open. I think that question should be looked at. If you're going to put a deadline for objectors to file, it would be easier for people to understand if the date was related to the date of the first advertisement rather than to the date of first reading which could be a movable feast.

11:10 a.m.

The second thing is, I understand that as far as a private bills committee is concerned, whichever committee is hearing them, as things stand right now when people come to file objections,

they do so by leave. If the committee decides in its wisdom that it will listen to objections, in essence the position of all objectors now is as is here on page 66; they appear by leave of the committee. Is that not correct?

Mr. Revell: I think you are correct. Nobody can appear before a committee without the leave of the committee, but in practice what that means is everybody who files an objection has been heard. I cannot think of a single instance where it has been cut off, except possibly on the Georgina bill. I cannot remember who was here in 1977 or 1978, whenever that one blew up. You will remember that there were about 400 objectors to the bill, but I think they heard them on the basis of representative delegations, as I recall. The hearings went on for hours and days. We had to sit over in the Ontario Room in the Macdonald Block because of the large number of objectors.

Mr. Cassidy: Perhaps the way to handle the objection that Mr. Rotenberg raises would be that if an objector had filed reasons for the objection, then that would in some sense give them a privileged status in the sense of having a right to appear before the committee rather than appearing only by leave.

Mr. Revell: I would not want to go that far though. I think that Mr. Rotenberg, in raising the old maxim, "If it isn't broke, don't fix it," has some validity on some of these things--in fact, I think it has a lot of validity on everything. I still see it as an issue that would improve the private bills procedure.

The thing about saying everybody who files--the city of Toronto has a very controversial private bill, which has been referred to the standing committee on regulations and other statutory instruments, dealing with demolition control. Presumably 800 people could file individual objections and then get the right to be heard, but what we are going to hear in that sort of a situation might be not the same objection but the same support 800 times.

I think it should always be open to the chairman of a committee to say, "Mr. or Madam Witness, are you going to be saying the same thing as witnesses Jones, Doe and Roe have given to the committee?" If they say, "Yes"--

Mr. Rotenberg: It is a good way filibuster a bill, by having individuals--

Mr. Revell: Yes. There should always be some kind of control. The Georgina bill, in fact, was a classic of this where it became quite apparent by about 11 p.m. on the final night that we were hearing the same evidence over and over again. I cannot recall all the details on that, but I think Mr. Philip, who was in the chair at the time, said: "Perhaps it is time now. We understand the issues on both sides. Let's get down to the clause-by-clause consideration."

Mr. Cassidy: I would say then that I think you probably are in a conundrum, because if you do try to spell it out too precisely then you either run the risk of shutting out people who legitimately have difficulty expressing themselves in writing but should be able to come and appear. On the other hand, it can make the committee prisoner of large numbers of people who wish to appear individually long after the usefulness has expired.

You are really down there for a provision that would encourage objections to be put forward in writing, but you could not absolutely mandate it.

Mr. Chairman: Do you want to answer it? Mr. Breagh also had a point.

Mr. Revell: If Mr. Breagh has a point, maybe I can answer both, or is it in the same area, Mr. Breagh?

Mr. Breagh: The difficulty I have in going through what Smirle has presented as options here is that I see one valid point coming out and that is the initial thrust you made, that there ought to be somewhere a compendium of information.

For a number of people who would be pursuing a private bill, like a municipality, that would be no problem. Before a municipality asks for some kind of legislation, there is going to be 20 or 30 pounds of paper hanging around city hall and it would not be hard to put that into three or four pieces of paper and keep it on file at the city hall or here.

In regard to other people who might not have quite the organization that a municipality has, it seems to me it would be a relatively simple thing to make the file which you keep in your office the compendium and have that available.

Once we get past that, I have some difficulty trying to figure out what the hell we are doing here in terms of putting more requirements on in terms of charging more fees and putting in time limits. I have been waiting for somebody to make the argument that these things are necessary and I have not heard it yet.

What I have seen here, and on into a couple of things that we have not quite got into yet about consolidating acts and sunset clauses and all of that, so far I have heard a reasoned argument which says we have this information, it ought to be put in the form of a compendium and it ought to be available. That much you have got me on. For the rest, I fail to hear the argument that would convince me we ought to do anything else. What is the argument?

Mr. Rotenberg: I would agree with you. I think there is some (inaudible) because if you get somebody who is putting in a bill to revive a company, how much of a compendium do you need for that?

Mr. Breagh: Excuse me, David. It does strike me, though, that in that kind of an instance, here at the assembly there is a file kept that has that information.

Mr. Rotenberg: I think I would agree with you that there is some merit in adding something into our standing orders on private bills that the applicant shall have a compendium, or whatever, and make it available at his head office, which would be the municipal clerk on a municipal bill, to be examined by any member of the public who wishes to do. I do not know how it should be worded. Something like that, I think, has a lot of validity.

Mr. Breaugh: That is about as far as I can go, to say make provision for a compendium to be made available.

Mr. Rotenberg: I agree with you on the second part that we are just complicating regulations by attempting to add things. As Jim Taylor said to me before, other tribunals do this. We are not an administrative tribunal; we are a political body. Political bodies act differently to administrative tribunals, whether we are dealing with legislation or not.

I agree with you, Mike. We just cannot, in my opinion, add some of these caveats. The word should get out somewhere that it would be nice if people who object sent it in in advance, but we cannot prevent it.

The third point which you have not come to, and because you have commented on it, I think there is some merit in--say, the city of Toronto private bill, which is the worst example or the best example, as it has so many amendments in it. It is only municipalities that have more than one private bill, and we should require bodies like that periodically to consolidate their bills, because we do it on our own legislation. A lot of that private legislation is out of date, with wrong references and so on. I think it is to the advantage of the citizens of a municipality to require that municipality--

I think it is quite right for only municipal bills to have to have some form of consolidation or update. As to a mandatory sunset, I do not think we have to do that.

Mr. Breaugh: Could I ask, Mr. Chairman, how many people would be affected? David says it is probably only municipalities. How many people would be in a position where that kind of a recommendation would apply?

Mr. Revell: In the consolidation proceedings?

Mr. Breaugh: In consolidation.

Mr. Revell: I think it would be only municipalities, possibly one or two of the hospitals; some of the educational institutions have numerous private acts amending their acts of incorporation.

Mr. Breaugh: How many instances of it would we have?

Mr. Revell: Except for the municipalities very few.

Mr. Breaugh: Does it make sense to rewrite laws or regulations for that?

Mr. Revell: I think yes, it does. Actually, I would like to deal with that issue separately because it is a key and separate and distinct issue.

Mr. Chairman: Yes, Mr. Revell, I think you wanted to reply to Mr. Breaugh's previous comment.

Mr. Revell: Yes, just with respect to the objection. I agree that my arguments at this point are a bit wishy-washy on the--I think on the compendium case I can make that most strongly. I do not think there is any doubt that there should be more information filed up front, even if we could have it rather than as a matter in the standing orders.

My office prepares a procedural guideline--I do not know how many members of the committee have ever seen that, but if you would like it I can send you all copies of it--setting out recommendations. Believe it or not, until two years ago nobody ever put in their notice the fact that if you have any comments on the bill you can write to the Clerk of the Legislative Assembly. It is not a requirement of the House yet.

11:20 a.m.

If the last report of this committee dealing with private bills is adopted, it will be mandatory that the notice set out that any person who is affected by the bill may notify the clerk in writing that he has concerns. I cannot remember the exact wording of the provision, but it essentially tells people where they can get more information.

The thing is purely voluntary now, but will become mandatory if the rules are amended. This thing with respect to opponents, for example, could be incorporated in the guidelines anyway. It is an informal guideline, and would just say "opposition to private bills". If you are opposed to a private bill, it is recommended that you notify the clerk of the Legislative Assembly in writing, and that you set out the nature of your opposition.

If I put that in by myself, and I have no support from the committee on it, people will probably ignore it. If there was a recommendation from the procedural affairs committee saying that "it is recommended that" or "it is considered nice that you set out the nature of your opposition"--

Mr. Rotenberg: You could add one other sentence to that. In effect, it would say that "persons wishing to appear before a standing committee to voice their objection to the bill should be notified the clerk and they will be notified of the hearing date". This way, the fact that you put your objection in writing is not necessarily tied to the fact that you may appear.

I think that sort of thing would have some advantage. Tell the folks that, one, you can send your objection in advance if you want to and, two, if you want to be heard, write the clerk and the clerk will tell you when the hearing is.

Mr. Revell: I would be satisfied with that sort of thing.

Mr. Rotenberg: It seems to make a lot of sense.

Mr. Revell: It becomes a matter of a set of guidelines that are used by--

Mr. J. A. Taylor: It is administerial--

Mr. Rotenberg: It is an administerial guideline which is not in the standing orders; it is not mandatory, but--

Mr. Cassidy: On this issue, to what cases does the ministry have strong objections to apply that bill and what happens in those cases? Is it frequent or seldom that the ministry has really intervened?

Mr. Revell: I would say that with municipal private bills it is relatively frequent. A good example is the recent borough of East York bill where they had some astounding provisions dealing with garbage, for example. It was in the bill that was introduced last fall, and it virtually allowed a municipal official to enter on people's land and determine what was garbage. If it was garbage, they removed it and billed them.

Mr. Rotenberg: They got a printing press too?

Mr. Revell: At any rate, because it was contrary to everything the McKuer commission report stood for, objections were filed by a number of ministries with respect to the provision the municipality requested when the bill was reintroduced in this session, just to drop it, because they saw that it was really beyond the pale.

Mr. Cassidy: The reason I ask that question is that I think we pretty well dealt with the question of the private citizen or outside objector. I am just wondering whether it might not be reasonable to require or suggest that ministries be expected to put their objections in writing, largely for the benefit of the proponents.

If the ministry is opposed, that is pretty serious. Rather than waiting until the last minute, it may well be that it would be useful for the proponent to know what the ministry's objection is. He would be able, therefore, to anticipate and respond to it, rather than having to improvise on the spot.

Mr. Rotenberg: In most cases regarding municipal private bills, our ministry staff consults with the municipal legal staff, or whatever staff, and says: "Hey, you have this provision and we don't like it. Do it this way."

There is an awful lot of informal back and forth discussion between the ministry and the municipality. It is very, very seldom that a municipal lawyer comes, sits here, and suddenly becomes confronted with the fact that the government is going to object to his or her private bill.

The signals go out and the consultation is there. There are some municipalities that ignore the signals and say, "Despite what the staff tells us, we're going to go ahead with our bill anyway," and they are going to be faced with it.

You don't sit in on very many of them. In most municipal cases I sit in and give the government opinion or other ministries' opinions, but there are almost no cases where they don't know this in advance. In most cases I will indicate to the solicitor or the applicant from the municipality, "Hey, we don't like clause 3 and we are going to oppose it," or, "If you amend the clause 3 this way we can accept it." We may have a suggested amendment for them. This is a second line of defence or attack after the staffs have gone through all this in the preparation period.

I don't think really there have been any objections from municipalities saying, "Hey, you have sprung something on us."

Mr. Chairman: Might I bring out a little point? On some of these bills we have seen situations where the committee meets, they sit down and the witnesses come in front of the committee, at which point the ministry parliamentary assistant then says the ministry is not in favour of--let's say there are three main topics--sections 1 and 3 but will go along with 2.

I am thinking of the Windsor bill, the Kitchener bill and so on. At that point, if the committee tried to prepare ahead of time, it was really redundant. Their time was being wasted to some degree. They didn't know the ministry was for or against, so there was a certain disadvantage to the committee members.

Mr. Rotenberg: Yes, I accept the point. On the other hand, there are times when we don't know until the last minute whether the municipality, because of ministry objections, is going to proceed with clause 2 of the bill or not.

You may have a point. There may be some advantage, in the meeting notice or whatever, to a note from the ministry to the members of the committee. You could have notes available a day or two ahead of time. I guess it is sufficient time to give a note to the chairman or a note to the clerk so the distribution can be made to the committee ahead of time as to the ministry's basic problems on a bill.

Mr. McLean: There is one thing I have trouble with in this. Once it is advertised in the Ontario Gazette, the bill comes and it is probably changed or amended. What input then is there from the general public on that bill after it has been here and changed?

Mr. Revell: I can answer that question, I think, quite simply. An amendment in committee cannot be made if it is outside the scope of the advertising.

For example, if a municipality asks for powers X, Y and Z, and the committee amends the bill and takes out X and leaves only Y and Z, it has cut down the scope of the bill. At that stage the greater includes the lesser. If you try to move an amendment in committee that is outside the scope of the advertising, the amendment is out of order.

We had an example of that, I believe, in the standing committee on administration of justice. Was it Kitchener where they wanted to amend the pinball legislation to go beyond pinballs? I can't recall what the amendment was, but I whispered in the clerk's ear that I thought it was out of order. We discussed the point and I think the city solicitor agreed that the amendment would, in fact, go beyond the scope of their advertising. That's the way it would be handled.

Mr. McLean: The public doesn't know that there has been a change. Perhaps if they had known, some of the public would have objected to it if you had taken out one of the clauses. It doesn't go back to the public because they are surmising it's going to be done in the way that it was presented.

Mr. Rotenberg: You mean a member of the public might be in favour of not taking out that clause X--

Mr. McLean: That's right.

Mr. Revell: I think they are deemed to know this. The unfortunate part, I guess, of this system is if you have an interest in particular provisions, then once notice is given and you have the interest it is up to you to follow the procedure through. You know that amendments can happen in committee and at that stage you should be appearing so that when the amendment is being put you could ask, I think, to speak to the particular amendment.

We have had that situation where amendments have been put and somebody said, "No, would the committee please consider this from this point of view?"

11:30 a.m.

Mr. McLean: Yes, but John Q. Public does not realize that. When people see it in the paper, they read it and they agree with it, that's fine. Then it comes down here and it is changed. If they had known it was going to be changed, they would have objected to it, but they do not know that it is going to be changed.

Mr. Rotenberg: You raised a point which is difficult to solve. But one thing I was thinking about was that ad, where you said, "Objectors may file." I think we should say that "Those who are in favour or opposed to the bill may file their opinions with the committee."

Mr. Revell: I do not think it says "objectors." It means any person interested in the bill or--

Mr. Rotenberg: But I would like wording that says, "those in favour or opposed," so that people who like clause X can say, "Hey, I like clause X," and that is on file when we get into committee.

Say we are in committee and we going to take out clause X. There are seven letters here from Oshawa saying, "Hey, we like clause X; we want it." The committee could say: "Wait a minute. Let's defer this amendment and call those people in. 'Do you want to come down? We are considering taking out clause X.'"

The ad should have something in it, not just "those interested." It should say, "those in favour or opposed." Some municipalities advertise that way.

Mr. Revell: What is the wording we recommended?

Clerk of the Committee: "The committee recommended that the ad state that persons wishing to be heard by the standing committee considering the bill should notify the Clerk of the Legislative Assembly." So that covers both those opposed and in favour.

Mr. Rotenberg: But a few minutes ago, we discussed the fact that you were going to put in a sentence above that notice, saying that people having objections to the bill could send their objections in writing. I would rather say, "People who have an opinion on the bill, for or against, can send it in in writing."

Mr. Revell: I agree with Mr. Rotenberg on that.

I think we should get on to the rest of it. I think we have flogged the first four recommendations almost to death. The second, third and fourth, in fact, have been flogged literally to death.

Mr. Chairman: Excuse me, Mr. Revell. Can we just summarize here? We have three issues in essence: the compendium issue, the notice of objection issue, and the consolidation issue. Could we deal with each one? Is it the general consensus of the committee that a compendium be necessary?

Mr. Cassidy: That would appear to be it.

Mr. Chairman: Yes, I think that is so.

Mr. Watson: Is this an administrative matter, such as an information matter, or is it a regulation that you are going to put in?

Mr. Chairman: No, it would be a requirement that there be a compendium. We are not defining how large that compendium would be.

Mr. Watson: It is a little dicey for me here, and I do not want to drag it, but I am all for the fact that a compendium be made available. I just do not want to get nung up on the fact--

Mr. Breaugh: We have a bit of a consensus. I am a proponent of the idea that a compendium be kept.

I think I heard Mr. Revell say that he keeps a compendium of sorts in that he keeps a file, which is not available to anybody. We may, in the final form, say that there are some organizations, such as municipalities, which can keep that on their own; that is not a difficult thing for them to do. However, we would require them to make available a compendium of information.

The difficulty I have with going much further than that is the current practice here. One ministry will give you a compendium which does tell you the background of the bill, and another ministry will hand you a sheet of paper which says, "There is no background to this bill." Then you can stand up and complain that you did not get the information you wanted, but there is nothing you can do about it.

I have a little difficulty in going much beyond that. I would like to see a little rethinking and redefining of what you mean by--

Mr. Watson: I am not opposing the principle. I would like to have the opportunity for a compendium, rather than the obligation. It is only to the advantage of proponents of the bill or objectors to the bill to provide that information. You are not going to get any objections to it from the people if you provide them with the opportunity, the vehicle or the system by which to put it in.

Mr. Breaugh: I am going at it from a slightly different angle, but I am afraid I am close to agreement here. I do not see how you make the requirement that somebody give you a whole lot of background information because it strikes me that at some point in time, somebody is going to sit down and write the compendium. It will be a little or a lot, depending on what they want to put in it.

If you say there is a legal requirement for a compendium, it will become the practice after awhile that somebody will hand you a sheet of paper saying, "This is the compendium," and that is about all the information contained in it. They have fulfilled the legal requirement to submit a compendium.

I think perhaps Mr. Revell could do a little thinking on that for us, to come up with what is a practical requirement. I am in agreement that the compendium should be there; I would like to see something a little more practical in terms of what we mean by a compendium.

Mr. Revell: Smirle has added a comment on page 67, which I discussed with him. It is not in my original paper. If we are going to go on with this, the ideas are the ideas in my original paper. I hope I have not implied that they were cast in stone.

It is a two-stage process. Is the idea worth while in the first place? There is not a great deal of value in developing elaborate proposals if nobody likes them in the first place. So the idea is there; it is short and succinct.

I think that if we are going to pursue this further, we should at least give some people an opportunity to comment on it, particularly with respect to municipalities. It would be fairly easy, for example, to advertise through the Municipal World that this is being considered: "What are your thoughts on it, and what sorts of things would make for a valuable compendium?"

I have taken a look at executive committee reports from the city of Toronto. They are fairly detailed and set out a great deal of information on which the council bases its vote, whether or not to proceed with private legislation. In many cases, you could almost take the report that goes from the executive committee to the council, and that becomes the whole basis of it.

Mr. Chairman: Mr. Revell, I am trying to isolate the three comments, to go ahead. I was asking whether these ideas should be circulated and to whom. I think we have to decide, first, as you said, which of these three areas there is a consensus on. So, on the first one, where are we on the compendium?

Mr. Rotenberg: I think we are at the place where we all feel that a compendium is desirable. We are not too sure whether the compendium should be mandatory.

Having said that, perhaps we should have Mr. Revell take that statement--I think it is a consensus, because Mr. Watson and Mr. Breaugh mentioned it--and say, "Can we make it mandatory? What do we do with that kind of a philosophy before we go and advertise it?" Does that make sense?

Mr. Chairman: Okay. Will you go and rework the compendium issue? You have the consensus.

The second issue is the notice of objection. Are we going to require objectors to file a notice and to state what they are objecting to?

Mr. Cassidy: No, we are not prepared to do that.

Mr. Revell: Having heard the committee, I think I agree with you.

Mr. Cassidy: One change would be in the advertising procedures and so on. We should make it clear that people wishing to object should notify the clerk.

Mr. McLean: I think that should be clear.

Mr. Cassidy: I do not think I was suggesting that government departments be required to publish or make public their objections. However, I do not think I heard a consensus on that. It was very, very mixed, but it did not float very high.

Mr. Chairman: I would think that, perhaps, with Mr. Revell's explanatory notes or opportunity notes, the ministries could have regard to that, too.

The third issue is the consolidation question.

Mr. Revell: Can I just say a couple of points on that, Mr. Chairman?

Mr. Chairman: Yes.

Mr. Revell: The consolidation issue is, I think, the most serious of the three issues. To be quite blunt about it, finding private legislation is a dog's breakfast. We have never required consolidation in this House. I do not think the official consolidations that are done by commissioners for the statutory revision every 10 years could even touch the topic, because we do not have the resources to do it.

Secondly, it is doubtful as to whether we can determine what is necessary and what is not necessary with respect to this private legislation.

I am not saying that we should have mandatory consolidation immediately. It would be a gradual consolidation. The problems are really twofold and I do not know how much Mr. Forsyth has set out; I cannot recall.

Until the Revised Statutes of Ontario for 1980 came out, for example, there was no generally available comprehensive source for locating private legislation if it was enacted prior to 1917. We have at least cured that problem. We have a listing in volume 9 of the Revised Statutes of Ontario of all the private acts that we know of that are still effect or may still be in effect.

11:40 a.m.

We do have an index in our office that covers exactly the same ground, but it is not a subject matter index that is particularly--it is helpful and it is the only one that is available. Unfortunately, it is not prepared in a comprehensive subject matter format; it is prepared on an annual basis. So if you wanted to find the city of Toronto 1936 act, you have to go through it for every year since 1936.

It would be easy to say, "Why has legislative counsel not done it differently?" I cannot explain why we did not develop a subject matter index beginning in 1867. I was not here. The cost of preparing such an index now would be absolutely prohibitive. I think, though, that if we got into some sort of a consolidation technique, then we are going to improve the law generally.

First of all, I do not know how much you are aware of how consolidation operates but the statute revision commissioners are given fairly wide powers with respect to the statute revisions to consolidate everything passed in the previous 10 years. It has

worked well, but we have never done private bills as we have never been authorized to do that. I think it is beyond the pale to start now.

There is no reason why municipalities--and they are the ones that have most of this--could not within 10 years review their private legislation. Interesting problems arise. For example, the city of Toronto's 1936 legislation that I referred to deals with property standards. We had just amended the Planning Act and it has far more comprehensive property standards provisions than were in the old Planning Act. Now it seems that the city of Toronto is not in line with the general requirements throughout the province. In some places they are; in some places they are different. I think it makes it very difficult for lawyers, generally, and for citizens in particular to find out what the state of the law is at any time.

By saying, "Within 10 years you consolidate all your existing legislation," they would bring forward a new bill, and some of them could be very, very thick, but it would then give the Legislature an opportunity to review what old powers are sitting out there.

It could be a very, very difficult procedure, I am not denying that. But what are going to be advantages? As I have said and as Mr. Forsyth has summarized, it is going to put each municipality's private legislation in one place. It will update all of the obsolete references that are out there.

This may seem like a small problem, but what happens is an act may say, "and the municipality has all the powers under section X of the Municipal Act." Of course, section X of the Municipal Act gets amended, amended and amended. It gets repealed. Then you have to start relying on other theories of law dealing with the interpretation of statutes and what happens in these situations. It is not, I think, a desirable situation.

With a decennial revision sort of thing, as I would propose in here, it would give the Legislature an opportunity to review what it has already given away. In many cases the municipalities will probably say: "Hey, that is now covered in public legislation. We were almost the authors of the public legislation." I think it would be a far better system than we have now for locating the private legislation and making sure that obsolete and unnecessary powers are not left lying around out there.

Mr. Rotenberg: Mr. Revell has given a very good summary of why this is necessary. The first time around, especially with something like the city of Toronto, it is going to be one horrendous job. The second time around 10 years later will be a heck of a lot easier because you will be doing only 10 years of legislation and not the 114.

Those of us who have been in municipal politics know about our own municipality's private bills and what Don has said is so. I think municipal lawyers probably know where they are at because that is their life, but the average citizen out there who tries to find out what in heaven's name his municipality has in private legislation just has not got a clue. I think we should pursue it.

On the proposal you have about sunseting, by the way, if you have the automatic 10-year review, that is a form of sunseting, because if the new bill comes back every 10 years for some form of review or consolidation and has to go through the Legislature, that gives the Legislature a chance, if they want to--and I am not too not on the sunseting.

What I think we should do, if the committee agrees with what Mr. Revelle has said, is to take it from here to the Association of Municipalities of Ontario, to the Municipal World, in some kind of brief we can give to them. Maybe it can be discussed by their executive or maybe at their convention this year in August, I do not know.

We can say to the municipalities: "We are thinking of recommending this. We would like to have your opinion. What do you think of it?"--because 95 per cent of it is going to involve municipalities. The general hospitals we can handle in some other way, and so on. There are three or four hospitals and a couple of other places that may have private bills.

I do very strongly agree with what Don has said. I really think the committee should approve in principle the idea and get it out to the municipalities for their comments before we finalize it.

Mr. McLean: I am of the same opinion as Mr. Rotenberg. I sat on municipal council for 15 years before coming here. I think this is an excellent idea and I think it is not only good for the municipalities but for new members of council who come in. They then do have an idea of what has taken place over the past years and if it is consolidated, and they revise it every 10 years, then I think they are more up to date.

I strongly support this and I agree with David. Perhaps it should be sent to AMO for their comments, and find out what their feeling is on it.

Mr. Cassidy: I would suggest that if it is to be sent to AMO, since certain educational and hospital organizations are involved as well, an effort should be made to identify anybody who is either respectively covered, or else who is pushing into that zone--maybe they have six or seven private bills and will get up to 10 before too long.

In other words, you can get an opportunity for them to comment as well as the municipal organization.

Mr. Chairman: We are sort of getting into who to circulate it to.

Mr. Breaugh: I think that is fairly simple. You get AMO to cover the municipalities, the Ontario Hospital Association to cover the hospitals, and the trustees' association to cover the school boards.

Interjections.

Mr. Revell: I can suggest how this thing can be done fairly simply. The table of private acts, of course, is now a public document and we can identify for the committee fairly easily who has more than 10 private acts, or at least who has 10 on the record.

The University of Western Ontario has more than 10 on the record, but after their most recent consolidation, they in fact only have one that is in effect. All the others are obsolete references.

Mr. Rotenberg: There is no particular merit in the number 10. The University of Toronto may only have eight, but they are big long ones and they should be consolidated, whereas somebody else may have 10 one-page ones which are not a problem.

Mr. Chairman: Is it then the committee's consensus that Mr. Revell does again work up something to bring back to us with the compendium--you are going to work that up again--to also work up this consolidation issue, then come back to us with a final--

Mr. Revell: Timing becomes critical here, Mr. Chairman, for me, because this is unfortunately the very busiest season of the year for legislative counsel. We are in the middle of a session. I do not know how much time and energy I can devote to this particular project at this particular moment.

I could work up something a little more elaborate than is here and have it back in your hands in a month, I would think. I do not know if that is going to be enough detail to--

Mr. Rotenberg: On the consolidation thing, I do not think Mr. Revell has very much to do. The only thing we are concerned with is, if we agree on the principle, who is going to get the notice? I think that is something the Clerk's office might be able to do by looking in the index rather than have the legislative counsel's office take the time.

The reason I say that is that I think we should target the 10-year cycle of the Revised Statutes of Ontario. You are going to target for all this to happen by 1990--not giving them 10 years the first time--if that is possible.

Mr. Revell: I must point out that I think in a case, for example, the city of Toronto, 10 years may turn out to be an impossibility. I will give you one example, and that is that in England six large metropolitan municipalities--here it is:

"Municipalities in particular should be encouraged to start consolidating their legislation. This could be done in the drastic fashion adopted in England, whereby a 1972 public act provided that all local legislation in six metropolitan counties would cease to have effect in 1979."

The seven-year delay period was to allow local municipalities to review their legislation and to prepare fresh legislation to continue the powers still required. It would appear that this drastic solution has created formidable problems, and at least one extension of time has been granted.

Mr. Rotenberg: That's the target date, but I am saying that I would like to get it to the Association of Municipalities of Ontario for its convention this summer. Therefore, I think that if we could possibly put the idea of who gets notice in the hands of the clerk, we can consult with him, rather than putting it in the hands of Mr. Revell.

Maybe the clerk can get this done for us at an earlier meeting. The counsel would have very little work to do except maybe supplying a little information.

Mr. Chairman: Then we do have a consensus in the committee that the recommendations or suggestions on the consolidation issue be followed up. Is that not the consensus of the committee?

Mr. Breaugh: If we are now simply looking for a rewriting of what we have in front of us--

Mr. Chairman: Right.

Mr. Breaugh: --in a form that is suitable for circulation.

Mr. Chairman: Could I then suggest that the clerk and Mr. Eichenman assist Mr. Revell with this, working these up and reporting back to the committee as soon as possible?

Interjection: Agreed.

Mr. Rotenberg: That would speak to who gets those, and how notice goes out to the people who are considering this?

Mr. Chairman: Right.

Mr. Rotenberg: That's what they are working out?

Mr. Chairman: Yes. The proposal, and wording the draft of what is going to be circulated. Right.

I think we have enough here regarding who it is going to be circulated to. Fine. Thank you. I think that pretty well finishes your presentation.

Mr. Revell: Thank you, Mr. Chairman.

Mr. Chairman: Good. Thank you very much for coming on relatively short notice, and in a bit of an irregular fashion.

Can we carry on to the next issue? I also realize that certain members here have a caucus called at 12 o'clock. We want to get out, hopefully, not too long thereafter.

Can we look at the budget? We have a draft budget in front of us that includes both Victoria and Washington. Is it still the wish of the committee that we put this to the Board of Internal Economy in this fashion and ask for two loaves?

Interjection: Agreed.

Mr. Chairman: Agreed? Thank you. You have looked at that; it's 94,000-odd, and you are authorizing me to do my best.

Interjection: Agreed.

Mr. Chairman: Agreed. Fine. Thank you.

Mr. Rotenberg: We want you to do better than that.

Mr. Chairman: Better than my best, right.

Mr. Breaugh: Failing that we will get somebody who can.

Mr. Chairman: Yes, anybody can. One more thing I might explain to the members of the committee is that the three House leaders were supposed to meet with us today, but that was felt to be quite premature by pretty well all people.

I consulted with each caucus, a member of each of the three parties, and they agreed to postpone that till next week. I understand that each of the House leaders will be taking it to their caucuses prior to next Thursday.

In fact, the clerk has advised me that he has been requested to, and is going to, appear in front of at least one caucus to go through this. I have asked him to consult with the other two caucuses to see if they also wish him to run through it.

The three House leaders will appear before us next Thursday. We hope we will have dealt with something in each individual caucus prior to that time.

Anything else? We are adjourned until next Thursday at 10 a.m.

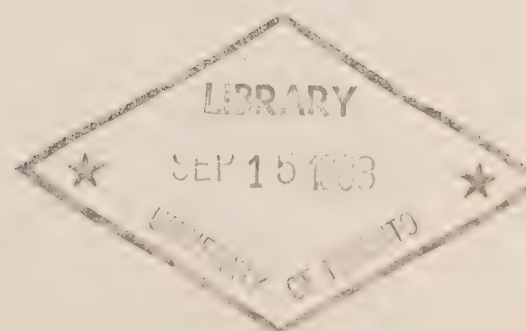
The committee adjourned at 11:53 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO STATUS OF WOMEN COUNCIL

MONDAY, SEPTEMBER 12, 1983



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)

Breaugh, M. J. (Oshawa NDP)

Cassidy, M. (Ottawa Centre NDP)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Mancini, R. (Essex South L)

McLean, A. K. (Simcoe East PC)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Watson, A. N. (Chatham-Kent PC)

Substitution:

Wrye, W. M. (Windsor-Sandwich L) for Mr. Mancini

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

Witnesses:

From the Ontario Status of Women Council:

Barnes, S., President

Kavanagh, C., Executive Officer

Toye, K., Member, Executive Committee

Vianna, B., Administrative Assistant

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Monday, September 12, 1983

The committee met at 2:10 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO STATUS OF WOMEN COUNCIL

Mr. Chairman: Gentlemen, Hansard appears to be working. May I please call the Ontario Status of Women Council to those seats along the front?

For Hansard, you might identify yourselves from north to south. North is with the New Democratic Party and south is with the Progressive Conservatives.

Miss Kavanagh: My name is Celia Kavanagh. I am the executive officer of the council.

Ms. Barnes: My name is Sally Barnes. I am president of the council.

Mrs. Toye: I am Kay Toye, executive committee of the council.

Mrs. Vianna: I am Bridget Vianna, administrative assistant of the council.

Mr. Chairman: Fine, thank you. I understand that you have no written brief. Is that correct?

Ms. Barnes: No, Mr. Chairman. I apologize, but I did not realize that you wanted a written brief.

Mr. Chairman: No, that is not necessary but some agencies do have them. Who is the spokesman? Are you the spokesman?

Ms. Barnes: Yes, I am the spokesman.

[Laughter]

Ms. Barnes: I see what I've started. Mr. Chairman. Perhaps I would take the questions I feel I could answer. If you get into budgeting or whatever, perhaps we could ask the executive officer.

Mr. Chairman: Certainly. Do you have any preliminary comments to read off, a preliminary statement or comments? Would you like to start right away with questions?

Ms. Barnes: I had no idea what the committee would be interested in, quite frankly, so I thought it was best that I just arrive and be available to talk about policy or whatever it is you would like to talk about the council.

As you know, I have just been there a year. I will do my best to tell you what we have done in the year I have been there.

Mr. Chairman: Thank you. Mr. Wrye.

Mr. Wrye: Thank you, Mr. Chairman. I welcome you here today. I guess I will open things up by simply asking whether you believe that the council's mandate is changing or ought to change now the government has moved to act on one of the recommendations of your June 1982 report, which was to have a minister. While he does not have ministry designation, the Deputy Premier (Mr. Welch) is now, as I understand it, the Minister responsible for Women's Issues in Ontario. As a result of that, do you see your role changing now you have that and will have a directorate underneath that minister?

Ms. Barnes: Yes, Mr. Wrye. I do not see the mandate changing. The mandate, which is to advise the government on any and all issues of interest or concern to women, will remain the same. It is a pretty wide open mandate, so I cannot see that changing. However, I think we will continue a lot of the function of lobbying, for example, but now there is a voice in cabinet. There is someone at that cabinet table to be a voice for women which was not there before. Some of the pressure to lobby is less, but it is different in that there is a person to go to, a focus which was not there before.

One of the frustrations I found was trying to rush around and talk to everybody. Now I can talk to Mr. Welch and he can talk to his cabinet colleagues. In that way, there will be a change; plus, the directorate will have resources we will not have. I understand the directorate wants to be a catalyst. It is not going to build up a huge bureaucracy as such but it is going to be a catalyst. There is a lot of information, a lot of studies, reports already done in this government. It is just that they are sitting around somewhere. Someone needs to pull those together. I know that is what they are going to do because Glenna Carr is already doing that. They will do those things we have not had the resources or the ability to do.

Mr. Wrye: Since you lead directly to talking about reports, there is a report or a study which was under way and has been under way, I think since November 1979, by the Ontario Manpower Commission--that may be another subject of some discussion. The manpower commission has had a study under way--on the special employment needs of women. My understanding is that study is not yet down. Does the commission feel it has any role in terms of urging that we get on with the task, get that study out and publicized so we can get down to some legislative action?

Ms. Barnes: The council has not done anything on that. Yes, it should get on with its work. I think by inference you are suggesting the name of the manpower commission should be changed.

Mr. Wrye: Yes.

Ms. Barnes: Yes, it definitely darn well should. It should be the employment commission or something. Yes, that should be changed.

Mr. Wrye: Since its inception some 10 years ago, the council has made a large number of recommendations in a number of fields, over the whole field of issues as they relate to women's employment, day care, wife battering, wife assault. You had a committee two or three years before the Legislature had a standing committee on the same issue.

You said there are a number of issues, that we have the reports and we are ready for legislative action. What would be your priorities considering the government cannot legislate everything it wants and the new minister responsible cannot lobby for everything he wants? What do you see as a council? What is your view in terms of the legislative priority?

Ms. Barnes: As you can appreciate, the council is very varied in membership and there are various priorities among its members. For that reason, we have broken it up in committees. We have a man from Ottawa who teaches at the Royal Canadian Mounted Police headquarters. His interest, obviously, is family violence. In fact, he appeared on behalf of the council before a committee of this Legislature, you may recall. He chairs that. If you ask him what his preference was, he would probably tell you the whole family violence area. Kay Toye to my left is very interested in high technology. She heads a committee on that.

I do not think we set priorities in that way. Right now we have just finished as of today, I hope, our brief to the parliamentary task force on pensions. To me personally, to the council as a whole, we think pension reform is absolutely critical in this province and this country. My own personal priorities are the economic ones. Those are the ones that bother me.

Equal pay is one of my priorities. I would desperately like to see us strengthen that law somehow in Ontario. I do not know the answer to that. I have not established in my own mind how we enforce these laws we have on the books before we go on to the next step, which I am sure you will want to pursue this afternoon. It is a frustration to me that we cannot get hold of the equal pay situation better. It might well be to go the next step, which is a composite test. Within the government and some of the opposition parties, I believe, there are mixed feelings on whether that is the answer, whether it will have more negative effects than positive ones, but I think it is worth discovering. I am quite sure Mr. Welch will go into that.

That would be my personal priority, the economic issues, equal pay, day care definitely. All those things that make it possible for women to have an equal break out there in the labour force because two thirds of them have to work.

Mr. Epp: Pardon me, are you talking about equal pay for work of equal value?

Ms. Barnes: I am talking about the equal pay laws we have now. Let us get those in force and then let us go further down the road. Right now, to try to enforce the laws we have would be my number one priority, I guess, if I had to pick a priority, although they are all over the map. There is family law reform and everything else, but I guess if you asked me to pick one legislative action, perhaps that is what it would be.

Mr. Epp: May I just ask a supplementary here? When you are talking about getting them in force, at what point and who decides they are enforced far enough before you will recommend to the government that they bring in equal pay for work of equal value? Do you make that decision? Is that a recommendation or do you wait another year or two before you say things have progressed far enough? Is it a position of the Ontario Status of Women Council that they are not prepared to recommend equal pay for work of equal value at this point?

2:20 p.m.

Ms. Barnes: Oh, no, not at all.

Mr. Wrye: The government hands out a lot of money through the Ontario Development Corp. and through the Board of Industrial Leadership and Development. Has the council taken the position in terms of these two areas specifically, for example, in suggesting that this is one method of getting into contract compliance?

Ms. Barnes: We pursued the subject and did not get awfully far. We have not pursued it to a great degree because it just has not hit the list of priorities. As you know, there is only so much time and so many issues we can handle. In the spring our big project, in terms of resources but also in terms of time--I mean you are dealing with 14 men and women who have other responsibilities either in the labour market or with their families, and we can only do so much with our staff and whatever--was family law reform, and I think we did darn well on it. I think it is a very responsible, well-written, well-researched brief. Over the summer it has been pension reform, which, as you can appreciate, is another very complex issue. Again, viewing it as objectively as I can, I think it is the best darn brief to the parliamentary task force from any women's group in the country.

It has taken up our time, and when you ask if we have done these other things, we have looked at them over the years; a policy is on the books. But no, we have not spent a session of the council on contract compliance.

Mr. Wrye: Should your position be full-time?

Ms. Barnes: It is pretty well full-time. No one tells me--

Mr. Wrye: I gather you are on a per diem, are you not?

Ms. Barnes: Yes, I am.

Mr. Wrye: Should it be designated to move ahead with that and recognize the new role of the council as a full-time--

Ms. Barnes: Yes.

Mr. Wrye: It was certainly a recommendation back in 1982.

Ms. Barnes: Yes, the council has recommended that. I don't know. I am not here to speak for the government. I believe it tries to take into consideration that there are three advisory councils: one on senior citizens, one on the handicapped and one on women. If it moves to make this one full-time, is it going to move to make the others? I guess it is a thorny problem, isn't it?

Are you saying women are more important than the aged? Where do the handicapped come in? Are you denigrating those councils by paying us more? I think they are trying to balance the three somehow, which I am not sure you can do, and maybe now is the time. But we have kind of been divorced or separated from the other two. We were cheek to jowl, as you know, in social development. Now that we are with another ministry, maybe now is the time to say: "Hey, this one is different. It should be treated differently."

Mr. Wrye: I am trying to remember. It seems to me that in your 1982 recommendations there was some suggestion as well that the government should back off making all of the recommendations strictly through order in council, that there ought to be some consultation at least with various women's groups on appointments to the council. Has the council moved at all from that recommendation? Have you pressed the new minister on it? If so, what has been his response?

Ms. Barnes: I think you should ask him about his response, but I can tell you that I have personally discussed that with Mr. Welch, and already he has enlarged the council by two. Their order in council now makes it 16 members instead of 14. Those two appointments have not yet been made. I had some personal preference that I think we should have a representative of youth perhaps on the council; I do not know.

Since I joined the council, I have been perplexed over the membership. I cannot recommend to you today what should be done about it. I have given it a lot of thought and I have not come to any conclusions. I do not think these 14 members or any other 14 people chosen in the province can represent close to five million citizens of Ontario. I just think it is impossible.

There was a recent story in the Toronto Star talking about how we are not the voice of women in the province. I think it would be absolutely, utterly pretentious even to suggest that I or anyone else could be the voice of women. I think you people are the voice of your constituents, but I do not think you represent them in the way that people are talking about us representing by virtue of our religious background, our age or everything else. We do not represent women. We just do the best we can to advise the government on how things could be done to better their lot in the province.

Mr. Wrye: You have been the chairperson--I guess the title now is president--of the council for a little over a year. You referred to the Toronto Star commentaries. I should say, to be quite honest with you, that in discussing this matter with the minister, I got the impression he is still of an open mind, that he is still, to some extent, thinking about whether he wants to get into the consultative process.

Is it your sense that it would add to the credibility of the council members if there was seen to be a consultative process with other women's groups?

Ms. Barnes: Definitely, if it went through the process, of course, but--

Mr. Wrye: Then there is the down side, and it is an obvious one where the government ends up disagreeing with those groups in terms of their recommendation and obviously makes the final decision.

Ms. Barnes: That is why I say that it has been perplexing to me from the beginning. I think also that we are a little bit overestimated. We are not miracle workers just for the very reason that we are appointed by the government and we are getting public funds to operate with. Mr. Welch would be wise if he saw us as one of many advisory groups in this province. Very wisely, as soon as he was appointed, he met with us, but he also met with many other women's groups because they all have different views as men's groups have different views.

Even when they come to making decisions, they should not just say, "The Ontario Status of Women Council said this." I think they should weigh off what those other credible women's groups say, the church groups, the B and P clubs, the university women, the farm women and everybody else. We do not represent all the women. We do our best, but I think he has to keep an open mind to all the women's groups in this province.

Mr. Wrye: You have identified yourself in particular as being interested in some of the economic issues. When I think of the various issues on the economic side, I think the equal pay matter is front and centre. I just want to explore a little bit what you said. Are you suggesting that we need to come to grips with the present legislation--I guess it is section 33 of the Employment Standards Act--before we can move off it? Do you think that the present section 33 is adequate? Suppose we start from there. Are you saying that there are adequate laws, but we are just not enforcing them properly?

Ms. Barnes: I do not know if they are adequate. I know we are not enforcing them properly. I know that the people of Ontario are not going along with them as well as they should do. Again, it is the arsenal of weapons, to quote one authority on the subject, the approach we have to take to it. It starts out with the kids in school, unless we train our daughters so they can compete with our sons to get the good jobs. It starts with something as basic as that, when they are tiny kids.

Marriage is not a meal ticket; it is not a career. Get yourselves educated and then get married or whatever. Be prepared that 40 per cent of the marriages in North America end in divorce, so you might well end up supporting the kids. It is a combination of all those things--education, day care--so that you can compete.

In answer to your question, Mr. Wrye, a long-winded answer perhaps, I think it is time maybe to go on to the next step, which is the composite test. I am not 101 per cent convinced of that, but I think it is something we should certainly be giving very strong thought to.

Mr. Wrye: I do not mean to be provocative because I know this has been a position you have taken really since early on. In terms of moving off the present legislation, even after a year why are you still very reluctant to move on to equal pay for work of equal value rather--and I view the composite test obviously as a part-way measure? I certainly would agree with you that it is a step down the road, but I wonder why we are going to take those half-steps. I know what the minister had a say on it in estimates last year, but I wonder why you are reluctant to move on the whole way.

Ms. Barnes: I guess that is one of the philosophical problems that give me some difficulty in this position I am in. As a philosophy, as something--you ask me, am I in favour of paying equally for doing equally valuable jobs? Heavens, yes, I am. I also believe in motherhood, Christmas and all kinds of things. I mean yes. I cannot believe that there is a decent, fair or compassionate person in this country who does not believe in that. My problem is how to implement it.

If I have had any success so far, it is because when I have come to the government with suggestions, I have done my homework. When they say, "What about this?" I say "Here is the answer." "So you have an argument," they say. I think I have a better one back in place of it. On equal value, Mr. Wrye, I do not have the answer. They say "Show me where it has worked." I cannot do that.

We have just finished a research project over this summer on equal value. A very bright young woman from Windsor came in and spent the summer doggedly, 12 hours a day. Interestingly enough, she worked her head off. We had to force the kid to have lunch and whatever. She went into the project with no preconceived ideas. At the end of it, she didn't recommend to us because she couldn't. She was not sure. She listed all the positives and negatives and she couldn't recommend on equal value. That is not a kind of be-all and end-all; I am just saying it was somewhat interesting. That is my problem with equal value; I haven't got a handle on it yet.

2:30 p.m.

When I go to the government on that subject, it will be with an ironclad case. I will say: "Here is what I think you should do. You should do perhaps a pilot project in the government of Ontario, and I think maybe this is the ministry you should do it in." I would have hoped that of anybody it would have been much easier for me to have gone along with the equal-value thing. It would have saved me an awful lot of aggravation from the media and from some of you people. But I think it would not do much for my credibility if I came to Queen's Park as every other group has done. They say, "Oh, yes, here comes another on equal value except she hasn't got the answers."

When I come on equal value, I will have the answers. I will have the figures and the other things that go with it. Right now--honestly, I have tried and I have done considerable research on it--I don't know how it works. We have tried our darndest to get information from Quebec. Everyone says, "Quebec has done it. Why can't Ontario?" Unless you people can come up with better information than we have, I can't prove to you it has been a great success in fact. It has worked at the federal government level, and that is from where we can learn on the thing. As surely as they have done it in the public service there, maybe we can do it here. That is why I keep making all these speeches.

I have just now come back from making another one to try to get the public ready for that, to preach the inequity and unfairness of what we are now doing, so that when the government does get to that, the public will be ready for it, it will be willing to pay the price. There is going to be a big price tag on equal-value legislation in the government of Ontario. List to put it into effect here at Queen's Park is going to cost millions and millions of dollars, as you know.

Mr. Wrye: You seem, in a sense, to have made a sensible case. You have the concerns--and there are concerns out there. I won't pretend and hide the fact there are a lot of people who say the case hasn't been proven, which is the point you made; it is not that you are rejecting it out of hand.

Would you be prepared to recommend now that the government moves to establish a pilot project within a ministry? Is that something you are looking at, to get this debate moved off dead centre? That is my sense; that is where we are and we are just not moving. We are talking about present law, composite test, equal value, and that is all it has been, just talk.

Ms. Barnes: It has been a suggestion of mine that is one thing we should be thinking about doing. I don't know where it has reached. It is something I am thinking of, but I need more information on it before I go with a definite proposal. Maybe the test project might well be the answer. I don't know for sure, but I think it might well be. It would be the foot in the door to see if it works or whether it does not, and to educate the public on the cost involved.

Mr. Wrye: I have one last question: I know others want to ask questions. I may have some more emerging later on. The council is sunsetted to March of next year. Is that correct?

Interjection.

Mr. Wrye: What is your perception--and maybe you could share with us what ought to happen after March of next year? Obviously, you have had some time to think about it, though not particularly in your own particular role. What should the council be doing? Should it fade away in March 1984? Should it go to the ministry, the government, and say that the statement in terms of the mandate of the council needs to be upgraded and changed somehow in light of the new role with Mr. Welch as the minister responsible? What are your views?

Ms. Barnes: I think it is too early. We have to let the dust settle a bit on the Welch appointment, on the formation of the directorate, and see how it is going to come along and how we are going to move in--we will be cheek to jowl with them, apparently, over on Bay Street--to see how that is going to work out. It is a little premature yet. So much has happened in the last six months. We are still trying to--it is a shakedown period, but no, it should not fade away.

I believe, politically, it won't fade away for a long time. It will be a happy day when it does because it means the battles will have been won and it won't be needed any more. But I don't expect to still be around Queen's Park without a Status of Women Council. Politically, it is like so many other things the government does. Once you set it up, it is like a bad cold; it won't go away.

Mr. McLean: I have a couple of questions, Mr. Chairman. Obviously, you have terms of reference, have you not, laid down by the minister for you to work from?

Ms. Barnes: Yes, sir.

Mr. McLean: What is your top priority within your terms of reference? What is the number one thing you feel you should be zeroing in on?

Ms. Barnes: What I was saying earlier to Mr. Wrye, the economic issues, the issues affecting women in the labour market. So many of them are there because they want to be or because they have to be. What upsets me as a citizen of what I think is a pretty fair province is that so many of our women are not getting an equal break. That doesn't discriminate just against them; it discriminates against their kids. I think the citizens of Ontario want to see women get a fairer break. That would be the number one thing, the economic issues and all the ones that tie into that.

Mr. McLean: You said there are 14 council members now and there was an indication there could be two more appointed. I often wonder if the idea of a larger council is the best to be dealing with. You mentioned going around and talking to different organizations, women's groups. If you have a smaller council, would it not be more feasible and simpler for you to meet more people within the community than to have a large council?

Ms. Barnes: Well, I guess yes. But you could also argue that if you had a larger council, then you could kind of take the show on the road with just a committee type of situation and say, "Who is available to go to London or Timiskaming next week?" Our problem now is that so many of our council members work full-time or have family responsibilities, so it is difficult to get them together. There is also a cost fact.

Let us face it. I think it is a decision that should be made, that is to say, is it one of the purposes of this group to travel more? Just to meet in Toronto now, each meeting costs in excess of \$2,000, which is not a lot of money in the total scheme of things but it is taxpayers' money and you have to be a bit conscious that every time we get together there is a price tag attached to it.

Mr. McLean: Are you the only one that is close to being full-time now? The rest are all part-time?

Ms. Barnes: Yes, sir.

Mr. J. M. Johnson: I have two questions, Mr. Chairman, one minor and one major. I will start with the minor, that is, girls in school and in sports.

I sat on the standing committee on resources development when we dealt with the Human Rights Code and, quite frankly, our committee couldn't come to a determination on how to deal with it. At that time the minister decided in his wisdom that he would appoint someone--I think it was Bruce Kidd--to do a study and make a determination on the issue. That was about a year and a half ago. Has there been any action by your commission relating to Bruce Kidd and his report?

Ms. Barnes: Celia Kavanagh is a little closer to that than I. There is a three-member committee, is it not, Celia? I don't know where they stand, but they are reporting to the Minister of Labour, are they not?

Miss Kavanagh: Mr. John Sopinka was heading a task force for the Ministry of Labour, and I believe they were supposed to report some time this year. I can't remember now whether it was in the spring or fall. We have more or less put things on hold until we hear what their task force has to do with it. Debbie Van Kiekevelt was another member of that task force. They are much closer to the action than our council members were. We would like to find out what they have to say and respond to that, other than the council spending time going into that aspect in any great detail at this point.

Mr. J. M. Johnson: You won't have any input into the report then?

Miss Kavanagh: We haven't requested to put in any input. The only time this has come up has been--we got a request last fall from a woman who wants to box, but it is not a particularly major question in so far as the council dealing with the day-to-day thing. It doesn't seem to be a top priority right now. It is sort of something that is there. As far as the Constitution goes, we would hope that when that comes into effect, section 15, in 1985 these things would more or less go by the way, as more and more girls are getting into sports. It is a long and slow process.

Mr. J. M. Johnson: It is a perplexing problem because it touches at the very heart of the inequity of the system; yet, at the same time, it is extremely difficult to give a fair answer. The concern I have is that it starts with those at a very young age of creating a public perception that there is some inequity.

2:40 p.m.

Miss Kavanagh: It is the attitude; it is right there. There was a discussion in the paper--I think it was yesterday's paper--when a reporter went to a grade 1 and 2 class in the city

and the little boys there were saying, "Girls can't play soccer." It starts right back then. It is only when they do see little girls playing soccer, sometimes playing better than they can, that they can appreciate that fact. It still is not seen as something that--it goes to the parent's attitudes too. They do not want to see their little girls getting hurt or dirty.

Mr. J. M. Johnson: I guess what heightens the public interest is once in a while there will be a sports team disqualified because of this and then the public becomes involved. I have a personal interest in this because I have four granddaughters and no grandsons, so I want some changes made.

Mr. Epp: Conflict of interest.

Miss Kavanagh: I have a similar interest. I play hockey with guys all the time. We do not have any problems there, but still it is just an attitudinal thing at this point. It is one that when these cases do come up they seem totally unfair, like the little girl who could not play in goal for her team. They cannot play in the tournaments, for instance. That sort of becomes very public, and even when the courts say, "Well, no, these are private clubs, if they do not want to let girls play." It sort of creates a lot of antagonism in the public and I hope it is a public attitude that will change that.

Mr. J. M. Johnson: Hopefully, we will have an answer this fall.

Mr. Wrye: That is due this fall, and the other one on it is Cindy Nicholas, the marathon swimmer.

Mr. J. M. Johnson: If there was any possibility the government was considering any structural changes or mandate, what changes would your council like to see implemented that would be able to solve some of the problems you have come with in the past?

Ms. Barnes: Mr. Johnson, on mandate, I think it would be difficult to change that to our advantage because it is wide open now. It is any and all issues of particular concern of interest to women. It is totally unrestricted as I understand it, so I cannot see any change there. I think we will have to come to grips with funding.

I think it is interesting that of you people here today, Mr. Wrye has gone on the economic issue and Mr. McLean and you are talking about the sports issues. If you really, as members of this Legislature, want us to go into those sports issues, then you are going to have to give us more money because we do not have that kind of money nor the time to do that. I think you also have to decide where to draw the line. You are now putting money into the women's directorate, and they are being very careful over there not to let that mushroom into a bureaucracy.

Are we to be all things to all people? Are we to tackle everything from sports to economic issues to pension reform? I do not know. I do not have the answer to that. I think we look to

guidance in that way. We respond in many ways to requests. When the federal government says there are dog and pony shows going across the country on pension reform, we have a moral obligation we believe to respond to that.

In some cases, I expect Mr. Welch is going to make definite requests of us. At some point the rubber is going to meet the road I guess and we are going to have to say, "We cannot do that because we do not have the money and we do not have the personnel." That time has not come yet in my experience. We were a bit over budget last year. That was absorbed. Perhaps it will happen this year; I do not know. We are going to go along with our \$170,000 until we run out, at which point I guess we are going to phone Mr. Welch and tell him there will be no more meetings and no more briefs or research projects.

I think it is a government decision to decide what it is they want us to do and how much of the taxpayers' money they want to spend. I can assure you, if they give us a half million dollars next month, we can start research projects on all kinds of great things. We can hire. There are talented women out there who would love to work for the council on projects that are very worth while. I just do not know where the parameters are. I would look to you people for some guidance on that, quite frankly.

Mr. Rotenberg: Are there not talented men out there too who might work on some of these?

Ms. Barnes: Of course. Some actually applied this summer, but we chose the most competent person, who just happened to be a female.

Mr. Epp: Is this part of the identity crisis which you are undergoing right now?

Ms. Barnes: Personally, do you mean, or the council?

Mr. Epp: No, the council.

Ms. Barnes: I have had an identity crisis for 41 years, I must say. I do not think we have an identity crisis. Maybe we do, I guess. So many people expect so much of us. I did a radio phone-in show the other day, and they said, "What are you going to do about this?" I said: "Hey, hold it. We are not miracle workers. We are 14 men and women who work awfully hard and are awfully committed and are across the province on this thing. We can only do so much." If there is an identity crisis, it is in wondering how many of these things we can tackle, because, as you have already pointed out, there are so many issues of great interest and great importance. That is the crisis, I guess, if there is one.

Mr. Epp: Are you going to be asking for a considerable increase in your budget this year?

Ms. Barnes: I don't know. As I say, until we get to that one project which is a burning one and we do not have the money for it, then we will go for money. Right now that has not occurred. We have got family law reform; we have done our pension

reform; I would think we are into equal value this fall. It has not been a problem yet. I expect the till will run dry this fall, at which point we are going to have to go into it.

It will be Mr. Welch's decision, I presume, to say, "Okay, either close down shop for a few months and wait for the next fiscal year" or "Yes, here is the money." I would think that might well happen in this fiscal year, but it didn't last year: we got through last year, just barely. I don't know. It will depend, I think, on what the government asks us to do, what projects to take on perhaps.

Mr. Epp: I suppose you can see a reasonable increase if you can get a full-time position all of a sudden. How many days are you working now on your per diem?

Ms. Barnes: Bridget does those things for me. On average, three days a week, Bridget? I am on the phone most days of the week, at least five days a week and sometimes over the weekends, depending.

Mr. Epp: Because you live in Kingston.

Ms. Barnes: Yes, and having me instead of my predecessors costs you more because there are travelling expenses. I stay in a hotel when I am here in Toronto and I travel more, making speeches, than probably my predecessor did, so you are paying more in perhaps more ways than one, depending on how you see these things.

Mr. Epp: No comment.

Ms. Barnes: In any case, it does cost more, and I am putting in more days. But to answer your question seriously, I think I probably charge, on average, two-and-a-half days a week, about \$105 a day. Some days I charge \$52.50. If I am just on the phone all morning talking to our office personnel, I charge just \$52.50.

Mr. Epp: I am just curious why you changed the position from chairperson or chairman, or whatever it was, to president.

Mr. Wrye: That's probably why. Then it won't be called "chairman," "chairperson" or anything like that.

Ms. Barnes: There was such a kerfuffle, as you recall, and I have trouble with the word "chairperson." In my view, it is not a very good English word, and I was brought up in such a way by English teachers that I have become a bit of a cross-eyed bear, I guess. I am a bit of a stickler on English and I do not like it. I think it is uncomfortable and, perhaps more important, it makes other people uncomfortable.

When I walk in and talk to a bunch of businessmen and they say, "Well, what are you? Chair-whatever?" right away I am off on a bad start with them because they are fumbling over what the heck to call me. Who needs that aggravation? Maybe we should try to

solve the problem for everybody--the feminists who do not like "chairman" or "madam chairman" or whatever. Anyway, it was a compromise, quite frankly, with which the cabinet, I think wisely, went along. There is the nice added benefit, which Celia, to my right, reminds me of, that it translated very nicely into French.

Mr. Chairman: Is that it, Mr. Epp?

Mr. Epp: That is it for now.

Mr. Breaugh: This is kind of interesting, Mr. Chairman, because Sally and I were born and raised in the same town, went to the same high school and are the same age, and this afternoon, today, her per diem is twice mine, and I am about ready to reject it.

Interjection: But you have more days.

Interjections.

Mr. Breaugh: I could tell you a lot more, but you boys gossip a lot, so I won't.

One of the things you cannot help noticing when you go through the various agencies we are looking at this time around is the priorities that the government has established about who it wants to advise it or to regulate or to do something. In this week there is an obvious comparison with the manpower commission, where government some few years ago decided it wanted that kind of work done, had a long list of tasks and promptly went out and gave it about 10 times the budget that your council has. It gave it a full-time staff and it has an impressive array of credentials sitting around writing reports, many of which get kind of lost somewhere, but the reports are written.

2:50 p.m.

For virtually all of the things you have discussed earlier this afternoon as being things that need to be done, matters of some interest either to your council or to government or to us as legislators, we have parallels here in other organizations. I really am wondering how you feel about--let me use your name--the Ontario Status of Women Council and your ranking in the priority of things. For example, if you went on a paper comparison of the two agencies which this committee will look at today and tomorrow, in one instance the government has provided the funding, the personnel, the reports, the technique--I suppose we will accuse them tomorrow of being a little cumbersome in terms of what happens after the report gets written and who does what with it--but certainly you can see a dramatic difference of almost 10 times in terms of allocating resources. How does the council feel about that?

Ms. Barnes: I think if it is going through some kind of a process, as you explain it, then the obvious answer would be that they have been treated rather unfairly. You have to trace the history of this one back 10 years. It has been an evolutionary

type of thing. I think the breakthrough has now come with the recognition of the minister and the directorate. I think you will now see this one take off a bit, but it has taken that catalyst type of approach to take place.

I do not know. I cannot help you on that one. To try and establish whether I would stay on and what the appropriate salary would be, we went through some of the per diems of some of the other groups and they are all over the map too.

Mr. Breaugh: Yes.

Ms. Barnes: The only way you can try and nail that one down and decide why they pay some people more than others is that there is a kind of a rule of thumb, I guess. Correct me, as you probably know more about it than I do, but the rule of thumb might well be that those bodies which actually make decisions, those people on those bodies have been paid more. Those bodies which just advise--i.e., us--have been paid less. It is a tough thing to nail down. Some people are professionals and some people are not.

The problem with this one, and I think what has held this council back, is that it has wrongly been lumped in with the other two councils. The history of it is how it has happened. Now that we have sprung out on our own, I think you will see changes. I believe we should see changes. I do not know. Is that an answer to your question?

Mr. Breaugh: In part. One of the things which disturbs me somewhat is when you look at the kind of issues in the foreseeable future, many of which are here now and have been for some time, they are pretty serious problems the government of Ontario and the Legislature are going to have to deal with. Precisely what we are looking for are people who can do an analysis, write reports, do the comparisons, provide us with opinions and, more important than that, I guess, provide us with substantiated facts upon which legislation could and should be based. I do not see where it is going to happen.

Your group is an example of an agency of the government of Ontario that seems to me to be in a theoretical way in the position to provide that kind of leading edge of information. In a practical way it does not have the resources to do that. Why not, and what can we do to rectify that?

Ms. Barnes: I do not know. That gets back to what I tried to say earlier when I looked for guidance from numerous members of the Legislature. Should the council be doing it or is that what the new women's directorate is doing? Having worked in the government, I have this feeling that throughout this government, in ministry after ministry, are great reports and studies and people say, "Why are there not more experts on this council?" The government has buildings full of experts around here. It has some of the best in the country on health, day care, labour standards and whatever.

Mr. Breaugh, I am not so sure this council has to go out and do reports on those things. I think the experts are here in this government. I would not see us doing that. I would think, surely to heaven, is that not what the new directorate is going to do, to pull that stuff together? I see us in an educational role as much as a lobby group or a bunch of researchers.

That is certainly how I see my role, going out and making the public realize the inequities are there because, naive as I might be, I think the hurdle is to get the word out there about the inequities because I just have a lot of faith in the taxpayers. Once they know the inequities exist, then the government can bring about some of the changes that you and I want, but until we convince the folks out there why we need stronger equal pay laws, we are not going to get them. I see it as a public relations job in some ways which we can do, which does not cost a lot of money. For some of the things you are talking about, I think maybe the place to do those things is within the government.

Mr. Breaugh: It is interesting you should put that position out. Rumour has it that in the fall of 1982 the Ontario Manpower Commission produced a draft report on women and employment which has not been seen since. Do you have any idea whether or not there actually was a report produced by the manpower commission?

Ms. Barnes: I have not seen that report. The only thing I have heard is that it is not awfully good.

Mr. Breaugh: If it is not awfully good and has not been seen, could we find it?

Ms. Barnes: I do not know. I cannot help you in that regard.

Mr. Breaugh: Do you see your council as having a role in finding such reports, good or bad?

Ms. Barnes: Not a key job in that, quite frankly.

Mr. Breaugh: I am happy with the argument you just made that there are lots of bright people around here writing reports all the time. The only difficulty is that it is very often hard to find the damn things, and it seems to me that if you do not want the role of preparing that research and tabling those reports as public documents, then maybe there is another role of finding the damn things that would be an extremely useful exercise.

Ms. Barnes: Again, I get down to the fact that there are only so many hours in the day and only so many things we can tackle. How much do you want to pay us? If you want to spend more taxpayers' money on us, then yes, we will have time to phone around and say, "Where is that report and why have we, as a council, not seen it?" I ask you, should the council be saying to the government, "Why has that report not been made public?" Or is that your role as a member of the opposition? I don't know. I don't have an answer for you on that one. I have not given it any thought.

Mr. Breaugh: I think you should, quite frankly. I think it is my job as a legislator to ask that kind of question.

Ms. Barnes: Fine. I respect your advice.

Mr. Breaugh: But I also think it is your job in part as someone who is in business to advise the government on matters concerning women, when some body like the manpower commission with its resources prepares a document of that nature, however good or lousy it might be, to say: "Give the thing out. Let's have a look at it. Let's get it in public. Give it some scrutiny and see if we agree with it. Is it well done, not well done? Does it come to faulty conclusions? What?"

It seems to me that this would be a role for an advisory agency to examine reports: (a) to examine whether or not such reports are prepared regularly and in fashion with the current bureaucracy and (b) to establish the validity of those reports. It seems to me that if you do not want the full-time generation of information as a prime role, then the secondary position is one you have a hard time denying.

Ms. Barnes: I respect your advice on it. If I heard that something was about to come to cabinet or was about to be legislated with which I disagreed terribly, I guess I would be jumping all over it. But this to me is another one of many reports that are out there somewhere floating about, and it has not struck me, quite frankly, as being that imminent in its contents that I should stop everything else and go after it. But I respect your advice on that. It could well be a role that the council should take up.

Mr. Breaugh: There are a couple of other things I wanted to pursue a bit. Whenever we get into examinations of what is really happening with women, particularly in the work place, we often get into attitudinal stuff about where there have been great changes in all the ministries now and they recognize that women are people and ought to be called by proper titles, and everybody has affirmative action programs. I guess if you want to be happy with saying that people are doing things about it, you could say that.

But when you get right down to paycheques and stuff like that, not a great deal has changed. My own family is a good example. In a traditional sense it is not a very traditional family. My daughter is the jock. I would hate to be the guy dumb enough to say, "You don't get paid the same amount of money for doing the same job as some kid next door." In an attitudinal way, I think society has made a bit of progress. But when you get down to hard-core facts, we always seem to be coming up with the same number, that women are still making approximately half of what men get for doing the same kind of work, and the march in that direction is going very slowly indeed.

What can an advisory council do to change that if you do not want to do research and you are uncertain of legislative answers to it all? Exactly what is happening there?

Ms. Barnes: I think of the things we have already done before I came along; the council did the women in employment brief. We can continue to lobby because, as I tried to say earlier, I do not think it is a one-shot thing; it is a combination.

As you know, women on average in Canada earn about 60 per cent of what men do. The easy reaction is to say: "Wow! That's gross, wild discrimination. Isn't it awful?" But then you have got to say to yourself, "Instead of just going across the country saying 'Isn't it awful,' let's look at what accounts for that."

First, 23 per cent of the women in Ontario work part-time. That is a big problem. We have got to treat our part-time workers better. So there is one answer: to try to narrow that gap.

On the educational process, probably you are doing a better job at it, but in your generation and mine let's look at it; let's look at the kids we went to school with. It never occurred to me that I could be a politician. Did anybody tell us that in those days?

Look at what we did. I can think of the one who became a dentist, but all the girls became teachers and nurses. In those days you just became a teacher or a nurse, and those are two of the better examples. The rest went to work in the Dominion stores or whatever and are still getting lousy wages. So it is a problem with our kids and our schools. Women are not as well trained or educated as guys are.

3 p.m.

Another fact we do not always like to admit is that we drop out of our careers to raise our kids, and when we come back we have lost some seniority or experience that the guys who have stayed there have got. Those are the things we do not talk about, but they are true and you have got to deal with those things with better day care for women who want to go out to work, a better education system and shake up our guidance teachers somehow. You were in teaching. You know the problems with some of our guidance teachers. Some of them are excellent and some of them are lousy. They are still patting girls on the heads and telling them to drop math and science if they want. Those are the things, and there are just so many things.

It is equal pay and it is equal value and it is attitudes; it is all of those things rolled in together. So you say, "Well, how can we narrow the gap?" Of course, right now 50 per cent of our graduates of our law schools and med schools are female; that is the good news. The master of business administration schools are graduating women like crazy, and a lot of them are facing discrimination. It is an attitudinal thing, I think, to some degree and, the economy being what it is, these girls are graduating at the worst possible time, when management is being laid off. Here they are getting these great jobs in the boardrooms at the same time as the people in the boardrooms are being laid off for economic reasons, so that mitigates the progress we are making.

As far as the public service is concerned, I think the wage gap here in Ontario is 72 per cent, which is no heck, but it is a lot better than 60 per cent out there in the private sector.

I don't have an easy answer. It is all of those things, and that is why I get a little bit upset on the equal value thing. I am a little bit worried that some people who preach this doctrine--and, God bless them, they believe in it--see it as a panacea and are forgetting all the other things. Equal value would deal with what? Maybe the 10 or 15 per cent margin, which is not going to close that horrendous 40 per cent gap without dealing with those other things.

I do not think you people can do it here at Queen's Park. I think you have got to keep making speeches, as I do. Make it an issue in your ridings with the teachers. Somehow we have to get the public the next time we have school board elections in this province to go there and ask the candidates what they think about sexual stereotyping and the problems with guidance teachers and whatever.

We always end up in buildings like this trying to solve these problems when I think the answers are out with the parents, the teachers and the employers. A lot of it is an educational thing.

Mr. Breaugh: On a wide range of issues now, I think people like me are looking for some advice and information. You can go from pornography to conditions in the work place to wife battering. I think even the starchiest, stuffiest male in this Legislature--I hope I am not that one, but even that person, sitting in the committee downstairs, for example, on wife battering--is taken aback by what is really happening there. How does all of that occur in our society and people we elect as politicians do not even know about it? Does your council feel a responsibility in an instance like that to provide politicians and the rest of the world, for that matter, with straight information about a subject like wife battering?

Ms. Barnes: Of course. (inaudible) neither here nor there. But we can only do so much. Again, we made a submission before you people on that subject. We have made recommendations. There have been breakthroughs on that subject. I am trying to emphasize the positive on that. We recommended that if this government could not do more this spring on a province-wide basis, for heaven's sake at least do more in the north, where the need is especially critical. I am not saying that as a result of our putting this on our shopping list, in the speech from the throne or whatever, Frank Drea then stood up in the Legislature and did it, but that is the kind of thing we can do, and that is what I tried to say earlier. I try to come to this government not in generalities but to say: "Okay, let's admit that only now in our society is this subject coming out of the closet. Are we admitting that in our families and in our neighbourhoods men beat up their wives and kids?"

Now that we have got that far, it is out of the closet; we are talking about this dreadful thing. Now that we are willing to

do something about it, we are going to set up these great things called interval houses. Maybe we cannot set them up in every community overnight, but at least let's set them up where they are most needed, and the need in the north, of course, was just absolutely critical. What we did in the spring on that one was to recommend that at least they run in the north. They did that, and we are not taking full credit for that. We are saying that this is the kind of thing we can do, I think.

Mr. Breaugh: We haven't made a hell of a lot of progress with people's safety in the work place. For men working in factories, if they died on the shop floor, it was a little obvious and we understood that. If it was from long-term effects from some kind of chemical, my judgement is there is a begrudging admission that there is something wrong in the work place where a lot of people die even though it takes 20 years for them die, that there might be something wrong in the work place.

In terms of places where women work, we are really having a rough time convincing the world there might be some hazards for women in their work places as well. What kind of work have you done there, particularly in new types of industrial work places? What type of effort is being made in that regard?

Ms. Barnes: You are asking if it is something we should do. Yes, like a lot of the other things, we should have taken on. Kay has gone into the high-tech situation. Kay will speak to this if you wish. We were trying to find out what the cost is going to be in terms of women losing those jobs due to high-tech. I don't think we gone into the health factors to a great degree, have we?

Mrs. Toye: No, we haven't.

Mr. Breaugh: The difficulty I have is that we have a tough time learning this. These arguments were made a long time--not a long time ago, 10 or 15 years ago. People in the work place used to say, "So some guy works in a factory. Factories are not nice places. Guys die from working in smelters," and things like that. It kind of drifted along, and now, 20 years later, we are trying to establish patterns of events in the work place or that the use of certain chemicals causes death to workers.

As a politician, one of the saddest things I have ever done is go to a woman who is in her mid or late forties, whose husband died in the work place. We keep trying to get some compensation and some pension. It is not very much. All of a sudden, for this woman who has a family, usually an adult family trying to go on to university, economic possibilities are extremely limited. What can we do that will prevent that recurrence? Can we do for women what we couldn't do for men?

Mrs. Toye: Doesn't this come under the union laws? Shouldn't the unions be looking into this?

Mr. Breaugh: The unions are, as best they can, but the unions don't make the laws in Ontario.

Mrs. Toye: I know they don't make the laws in Ontario, but they do have contracts with the employer. Can they not put something like that into a contract, about safety hazards?

Mr. Breaugh: Oh, yes. They try. To be fair in all of this, the trade union movement is on the front edge of occupational health these days and perhaps picked it up earlier than others, because of the natural fact that when a member of a union dies, it is somebody in the local who goes to visit the widow, or when there is an accident in the work place, the union has to deal with that. They come into contact with those problems before other people do.

I am trying to grope around and see if there is a way where we don't have to wait for people to die before we do something about it, where we don't have to wait for 20 years before we conduct an investigation into whether or not a work place is safe. Particularly when you think about women and where they tend to work, we have not a great deal of knowledge in that area.

Ms. Barnes: There is a conference at which I'm speaking next month, being held jointly by the Ontario Human Rights Commission and the women's bureau of the Ontario Ministry of Labour. It is for visible minority women. This might well be on their agenda. Maybe you would like to contact those people. If it is not on the agenda, it is something that might very appropriately be on it. As you know, a lot of the women you are referring to in that kind of category are immigrant women who have a double whammy, a double form of discrimination of being women and also being from an ethnic background. That might be a place to start. It could be the women's bureau has done something on this. I don't know. I can't help you on that.

Mr. Breaugh: Let me end on a general question. Sally, when you were appointed, there was a lot of foofaraw about your attitudes and connections with the government of the day and your approach as opposed to Lynne Gordon's approach or someone else's. The only difficulty I have with the Ontario Status of Women Council, in going over the research and my general knowledge of it, is that it appears no one has ever really decided what this council is. Does it advise the government of Ontario on what to do now? Does it advise women in Ontario how to make things happen? Does it identify problems and lay them out so the government then has to react to them?

That is my major difficulty with you. I cannot accept that this is a just a little group of people who will advise Bob Welch on what to do next year. I do not think that is your role at all. I hope you do not think that is your role. But then when I move on to what should you do, to be honest, I would like to see you given the money the manpower commission has and kind of turn you loose and see what you would generate in terms of research, in terms of proposed legislation.

3:10 p.m.

For those of us who are advocates of some kind of legislation which would make employers pay equal amounts of money for equal work, we are fumbling around with it. What is this legislation going to look like? How will it work? What effect will it have on the work place? I think the pertinent question is, will it in the end produce equal pay for work of equal value? I really do not want a moral victory there and I do not want a legislative victory. I want to see paycheques that are in the same amounts. What really do you see this council, and your role as president, accomplishing?

Ms. Barnes: What we have accomplished or what we hope to do?

Mr. Breaugh: Yes. What have you on the agenda that you think is an achievable goal for your council?

Ms. Barnes: I think the first major hurdle has been passed, and that was getting a minister responsible, because you people know better than the public know that in our system of government, you have to have somebody to carry the can. That was part of the problem. There was nobody in cabinet who did not care about these things, but there was nobody around that table who would get heck when things fell apart, or would say, "Hey, but how does it affect women?" We have the minister, and I think that was a major victory for the society and the directorate to follow, of course. I think that was part of the hurdle.

I think the second hurdle is public attitudes. That is why I think every one of you--I mean, it is all well and good for you people to ask us what we are doing. I ask you, when is the last time you made a speech in your riding on this subject? When is the last time you reminded your constituents that two thirds of the women who work have to. They are single, divorced, widowed, or are married to a guy who makes under \$15,000 a year. You know what it is like as well as I do. We can only get things done in this province when the public is behind us.

I do open line shows, as you all know, where the guy who phones in and says, "Ah, the trouble with women is you are taking all the jobs away from men. That is what is wrong with the economy today." I say, "Hold it, give me five minutes with that one." Perhaps more of the members of this Legislature would try to get that point across that it is not true. I think public attitudes is the biggest hurdle for the things we are talking about today. I really do.

On the whole day care issue, sitting around furrowing our brows and worrying about what is going to happen to the next generation of kids because they are in child care, it is too late. It is like when I first came to Toronto in the mid-1960s. The Toronto Star used to send me out to interview Marshall McLuhan, or anybody else I could find on the street, to say: "Is it not awful? We are raising kids in apartment buildings." It was too late; the buildings were built and they were full of kids because families could not afford single-family dwellings any more. We were wasting time. We should have been making sure apartment buildings were being built to accommodate kids.

In my view, we have to somehow get the point across that if you do not like child care, that is very well, madam or sir, but please understand that a lot of the women who are out there working did not want to leave their kids. They had to because they are divorced and there is a 75 per cent default rate on support payments in this country and that kind of thing. If we could only get the public to understand those things, then we could move ahead. Frank Drea could move ahead on day care. Politically, he could do it. I do not think politically he can announce massive changes in day care right now.

I am wandering and I am sorry, but I get a little bit frustrated when people say, "What are you going to do about this and what are you going to do about that?" We are only going to do what the public wants us to do. At least the government is only going to do what it thinks the public is ready for on day care and all those other things, on equal pay, the enforcement of that. When people understand just how badly treated women are in the work force right now, then I think they will say, "Nail them. Nail them with a tougher equal pay law." Right now there is not that understanding out there of how badly off women are, the inequities and the injustice. I think when we get that message across, then you can stand back and watch it come. I think it is happening.

Look at the United States. President Reagan is worried sick over the women's vote in the United States. Things are happening there. This group I just spoke to at noon come from all the states of the union and they have 14 million women around the world in this organization in 48 countries. You talk to them and you can see things happening. They are not wide-eyed radicals. Most of them are very proper Republican ladies who are volunteers and whatever. They are interested in these subjects; they really are and they can see things happening. They all belong to groups that believe in these things and now they are kind of spreading the word and it is catching on. You will see Reagan make changes.

It was more than coincidence when the Prime Minister of Canada appointed a women's adviser a month ago. In addition to having Mrs. Erola as the woman responsible for women's issues and having a directorate of his own to advise him, plus the National Council on the Status of Women, he appointed a woman in his office. I do not know if that was window dressing or what, but to me it was signal that he knows he has got a few problems with that. At the Tory leadership convention--I do not know how many of you watched it; I watched it on TV--every darned one of those leadership candidates went out of their way in his pitch that night to refer to women. I do not know how many of them--I have forgotten--had a woman to either nominate him or second him. All of a sudden it is a cause whose time has come. I believe it has always been morally there, but I think politically it is coming too.

In the constitutional situation in Canada, the ad hoc committee took to the streets, learned how to use the press for the first time. The hue and cry surprised a lot of politicians, including the guys who run this province. A lot of women across Canada said, "Hey, you guys are not going to get away with that

ever again," and they will not. That was the big turning point in the women's movement in this country. We will have to wait and see what the courts decide on the Constitution to see how big a victory it was. But politically it is happening in every riding in this province.

Let me just tell you one quick story. I went, for personal reasons, to one of those summer picnics that you people have. It was a Tory backbencher picnic this past summer and I was kind of hoping to stay in the background a little bit with my husband. But this nice friend of ours was determined that he would introduce me to everybody as the person in charge of women's issues. I have got to tell you there were a lot of people who looked askance and expected that at any moment I would burn my underwear in front of them or something. They were same people who looked askance at me when told that I was going to be in charge of women's issues. During the afternoon almost every one of them found some reason to walk over. They might start by saying, "I am no libber, but," and they would go on to say: "Is it not awful that women are not paid the same as men?"

It is there. You know, Mr. Taylor, what goes on in your riding. All you people would know better than what I am telling you, but I do believe it is there. They might not be strident and they might not be too outspoken on the subject, but they really do believe, especially in those ridings, in a kind of justice and basic equity. What is going to move things in this Legislature with the government is when you people can convince the government that is what the people out there in your ridings want.

Hopefully, this council can spread that word and try to bring that public opinion along and move it. I think it is moving, if we can just give it a nudge in the right direction. I just think it is an exciting time to be in the whole thing because advances are being made and we are doing it, if not for moral reasons, at least we will do it for political reasons. I do not care about the reasons, just as long as it gets done.

Mr. McLean: How many men are there on the council?

Ms. Barnes: Two.

Mr. McLean: Have you got them convinced?

Ms. Barnes: (Inaudible) keep up to them somehow.

Mr. Wrye: If I could have a supplementary to that, I think I know what Mike was getting at. You referred to President Reagan and his difficulties with his own Republican women's group and the like. Is it not time, since you have won this breakthrough, which is the minister responsible, for the council to find a new role, and maybe immediately to say, "Okay, we now have a minister responsible, but so far that is window dressing." Nothing else is happening. There has been no movement on day care because you say Frank Drea cannot marshal public opinion behind him. There is no movement on equal pay because Russ Ramsay cannot marshal public opinion behind him. There is no movement on battered wives because Gordon Walker cannot marshal public opinion behind him.

Is it not time for the council to marshal public opinion? Has the time not come for the council to say to the government of the day, "Look, the reports are gathering dust." Is it not time for the council to take that advocacy role to try to move the government and all of us, as legislators, opposition or government members, off dead centre and say, "If you guys"--and it is guys with six exceptions--"are not going to do it, we are just going to keep the pressure on till you do."

Ms. Barnes: Mr. Wrye, I had hoped that is exactly what we were doing. In a personal way, I was invited to the Premier's policy session last February, at which I said many of the things you have just said. I am invited back to the one that is being held at the Benmiller Inn this week. I will be repeating those things and this time with a little more clout, because I will just be one of three people there. Bob Welch and Glenna Carr will be there. Women's issues will be taking up a whole morning of the session. It is only a one and a half day session, so that says something.

3:20 p.m.

Mr. Wrye: I do not want to be ungenerous--Marion is here as women's issues critic--but I do not remember any legislation this spring. We have no promise that it is on the agenda this fall. We spoke at the policy conference in February and we have a minister, but other than that, we still have no agenda for action.

Ms. Barnes: Excuse me, Mr. Wrye. I do not think you have done your homework in some ways. This council is not taking credit--certainly I am not--but when I look at the spring, I look at things like the appointment of the Minister responsible for Women's Issues, the directorate, Ontario finally dropping its veto of the Canada pension plan dropout which affected women in every province of this country.

Mr. Wrye: I would agree. I am sorry. Other than the ministry and that substantial--

Ms. Barnes: Can I continue?

Mr. Wrye: No, no. Okay, go ahead.

Ms. Barnes: How about the \$4 million Mr. Miller set aside in his budget which was just for special training for women. Mr. Wrye, \$4 million ain't a lot of money, but I think the precedent is set. They are acknowledging that unless you give extra money to women to bring them up to speed, they are not going to compete with the guys. That was the important part. It was not the \$4 million, but the precedent that Treasury set by saying "Here is the money. Yes, we recognize there is a difference."

The Minister of Community and Social Services (Mr. Drea) with his so many million dollars for the interval houses up north--again it was inadequate but a start, a recognition that the government had to get more involved in that kind of thing. Probably you people alone would know, not the public, that the

most important thing in a government way that happened all this spring was the fact that now, as we did a few years ago, every cabinet submission will be accompanied by a communication strategy. Now every submission to the Ontario cabinet has to have a strategy which requires the public servants of this province to sit down and say "How will this affect women differently?"

You know as well as I do that is a breakthrough. By one stroke of the pen that sent a signal throughout the public service of this province, "We have to think how we are treating the women in the legislation we pass." To me, maybe that was low profile, unheard of by the public, but golly, that was important in terms of our provincial legislation.

Mr. J. A. Taylor: Do you have any more--

Mr. Wrye: I see you got the interval houses, but I also see at the same time, as you know, that the complaint and support program, the pilot project in Windsor, in my own community, was turned down. There was another breakthrough. They are reconsidering it after a lot of pressure, as you probably know, but--

Ms. Barnes: Was that not Ottawa dropping the bag and Ontario picking it up?

Mr. Wrye: We could discuss that for a week.

Ms. Barnes: That is a political thing.

Mr. Wrye: Yes, that is a political thing. We could discuss that for a while, but the fact of the matter is it did get turned down. It was a specific recommendation of the standing committee on social development last fall and it went nowhere. I will concede that the potential large breakthrough is the Minister responsible for Women's Issues. There is no doubt about it and I will concede that Mr. Welch has now been given responsibility, as I understand it, to review all legislation and all initiatives of every ministry in terms of what its impact on women will be. You are right, that has a potential, but I do not remember much legislation, if at all.

Ms. Barnes: It is kind of early. Don't forget it was a pretty sparse speech from the throne this time around.

Interjections.

Ms. Barnes: One wonders if the women's minister had been in there what else there would have been, but that is okay. It is good publicity for that. What we lose on one side, we win on the other.

Mr. Epp: We will have to let you rewrite the next one.

Mr. Cassidy: Ms. Barnes or Sally, it is useful to see you here. Welcome and so on. I think the council should be given credit for the fact that such things have taken place as the ending of Ontario's veto on the CPP dropout, added to the fact as well there is now formally a Minister responsible for Women's Issues in Ontario.

However, my memory goes back to that period of the Royal Commission on the Status of Women which, among other things, led eventually to such things as the very active participation of Canada in the International Women's Year and the creation of status of women councils at the federal and provincial levels.

My memory also goes back to the fact that the issues, such as the CPP, access for women to training in the industrial trades and discrimination, have been raised repeatedly in the Legislature for as long as I have been here. I suppose it is a matter of perspective, but I cannot entirely share your delight at what is being done because of the amount of rhetoric which I have seen expended by women's groups, women and people across the province and by opposition political parties before something has finally begun to get them to budge.

Perhaps I could ask you a few questions. You have really answered them, and I am just going to ask them briefly, therefore. Whatever your reservations about what equal pay legislation should be ultimately, are you satisfied with the present situation regarding pay equality for women in Ontario?

Ms. Barnes: No. No one could be pleased with that, given the inequities that exist. Something is wrong. It is the answer I fumble with. Is it more people to hire as enforcement officers to go out there? I don't think so. I think it is maybe a combination of that, public attitudes and moving along to the composite test. I look at all the examples of how some very unfair employers dance around the present law, circumventing it in stupid ways. You know them as well as I do. "I sew cloth and you would sew leather and, therefore, you would get paid more than I would." It goes on and on. That is the kind of thing. I would like get after those kinds of people.

Mr. Cassidy: Are you satisfied with the progress of the affirmative action programs within the public service of Ontario and what has been achieved with the crown employees office program over about eight or nine years now in terms of putting women into senior positions in proportion to their membership in the public service or to their prior contribution to social and economic life in Ontario?

Ms. Barnes: Given the statistics, I obviously couldn't be pleased. There is a long way to go there. Again, when you look at 60 per cent in the private sector and 72 or 73 per cent in the public sector, you have to give them credit for it. You go on about how there is so much to do. When I first started out in this job I found it was the most depressing thing I had ever taken on. I kept going to all these meetings and the speakers would go on and on about--some would even use the word "slavery" on occasion. It is just so depressing. You are right. There is so much yet to do. But if I just sat around every day and talked about the things there are yet to do and didn't remind myself of the things we have done, I would have packed it in long ago. You have to balance that off and say, "Yes, there is a long way to go," but to keep the old adrenalin pumping, you have to take some credit for the successes we have had too.

Mr. Cassidy: What about affirmative action in terms of prototype? Are you satisfied with the efforts by the private sector independently to implement affirmative action programs or are you satisfied with the success of the affirmative action programs that have been administered by, I think, the Ministry of Labour in Ontario which are intended to reach out to the private sector?

Ms. Barnes: My answer won't surprise you. It is what you expect me to say. Of course, I am not pleased with them. It is like so many programs. We could do better at everything.

Mr. Cassidy: The latest figures we have, which I think come from the government, indicate that in 1983 there are about 41,000 apprentices in Ontario in the various service trades, of whom 40,000 are male and 1,000 female. These figures seem to indicate there has been a sharp drop in the number of women in apprenticeship between 1981 and 1983. Are you satisfied with the way that Ontario has moved in terms of ensuring that women have access to skills training in the province?

Ms. Barnes: The same answer, Mr. Cassidy. We can do better at everything in this province, as governments, as opposition parties, as members of the public.

Mr. Cassidy: Do you think there is anything to congratulate on what the government has done, given the fact that this problem was identified many years ago, with the progress, if any, that has been made, let us say, over the last seven or eight years?

Ms. Barnes: On affirmative action?

Mr. Cassidy: No, on training and industrial occupations.

Ms. Barnes: I just repeat myself. Of course, we can do more. I think we will do more.

Mr. Cassidy: But when only one or two per cent of the apprenticeship positions are open to 40 or 45 per cent of the labour force, is there anything that can be excused about that kind of record in Ontario?

Ms. Barnes: We are talking about a lot of factors. There is the National Training Act in this, which is now under review with several ministries. There is an interministerial committee in this province dealing with the feds on the National Training Act, which is somewhat critical because we are talking about funding which comes through Ottawa. You are talking about a very complex subject, and we have a long way to go on it.

Mr. Cassidy: What about day care? I would take it from what you have said that you are far from satisfied with the record of the Ontario government on its action to ensure that adequate day care is available in relation to the needs of women and families in Ontario.

Ms. Barnes: As a member of this council, of course, I would have to be displeased, but I am not sure the government can do everything in that regard. I think a lot of the emphasis has to be placed on the private sector. We have to get more employers to set up work place day care facilities. We have to get more unions to include that in their demands when they go to the bargaining table. I think it would be very neat if you got me to sit here today and for two hours condemn the government of Ontario on these various issues. But I think it is just a partner in the total picture. The government can do more on day care, but it is only part of the answer. It cannot, it should not do everything. I think there has to be more day care in the private sector as well.

Mr. Cassidy: Shortly before you took over from Lynne Gordon, the council produced a series of recommendations which sought to broaden and expand the mandate and, among other things, to make the president now full-time and so on. You are quoted in the Star as saying, after the creation of the Minister responsible for Women's Issues and so on, "Maybe the council can sit back a bit." Is that accurately reflected?

Ms. Barnes: It is accurate--As a former journalist, you know how one is able to be taken out of context. I said maybe we could sit back a bit and see what the new directorate is going to do. Let it be the catalyst in trying to get the information from among the ministries, which I have been trying to do. Maybe that is the directorate's job. I would like to sit back just a little bit, as I said earlier, let the dust settle and find out what this directorate is going to do; how, by sharing quarters with them, a respectable distance down the hall, we can work together to accomplish the things we are trying to do. I think we have to sit back for a few more weeks and find out what they are going to do. They are now hiring research people. They are seconding people from the various ministries. Let us see where their priority is going to be and then we can get a better handle on where the gaps are that we can fill in where we can be most effective given our limited funds and personnel.

Mr. Cassidy: I do not want to labour the point and I have been a journalist as you say, but certainly the impression was of more than just a few weeks.

Last year the council recommended that the selection process for council members be broadened. Recognizing the fact that unless you find people who have eight characteristics that you are trying to fill, and find 14 people each of whom meets all of those different kinds of things--well, you can't get everybody in--what is your view now with respect to what should be done and what can be done to broaden the selection process?

Is the council taking independent steps in order to perhaps meet with various representative women's groups or other groups across the province to develop with them names of nominees which could be put forward to cabinet rather than waiting for whatever that committee is that meets up at the Park Plaza Hotel to come up with names?

Ms. Barnes: I do not think they meet at the Park Plaza. I think they meet in the dining room every Thursday morning or whenever.

Mr. Breaugh: You should object to that.

Ms. Barnes: I do not know whether this council--we are appointed by that group. It seems to me the government appoints the members of this council and as members we have to live with the people who are appointed to serve with us. I do not know if this council should be doing that. We have recommended that the council be enlarged. We have expressed an opinion that one of us should perhaps be younger in age.

I think that is up to the government, quite frankly. Maybe it is Mr. Welch who should go to the various groups and get ideas from them or whatever. I think we live with what we get.

Mr. Cassidy: Essentially you are saying you disagree with the recommendations of the council--

Ms. Barnes: No, I do not say that at all.

Mr. Rotenberg: Can I have a supplementary on that? What is your opinion of the two token men on your council? Do you think it should be nondiscriminatory and it should be just people and not two token men and all women?

Ms. Barnes: That was Mr. Welch's doing apparently, Mr. Rotenberg. Ten years ago when this council was set up, he was a minister and it was he who said: "Hey, let us not make this a sexist group." I kind of agree with him, having this last year served with the two men on our council and knowing the contribution they have made, because a council is in some ways a bit of a sounding board. That is one thing about it. It would be much easier to appoint a bunch of women with feminist backgrounds who know all these subjects inside out, all these figures I have spewed out to you today. But what you are going to end up with is yet another group recommending the same things a lot of other groups are recommending.

Mr. Rotenberg: What I am getting at is, do you think there should be more than two men on the council?

Ms. Barnes: I do not care, quite frankly. I just want to see 14, now 16, really committed people, which we have now. You would be amazed. The one woman from Ottawa, for example, loses a day's pay when she comes to serve on the council. She works for the federal government and loses a day's pay as a result. There is a lot of commitment.

When we were into family law reform, which as you know is very controversial and very sensitive, we travelled back and forth from here to Ottawa as a convenience to the members who are there, and we went to two o'clock in the morning or whatever. We went to the mattress over some of that stuff, but I think it is worth it because, in the end, here you had 14 ordinary--for want of a

better word--men and women who said: "This is the way it should be. We are not experts in anything. We are just ordinary citizens, and this is what we think you as the government of Ontario should do."

People say, "Oh, you should have experts on the council." Expert in what? Last spring I guess we would have been experts in family law reform. Would the government have fired all of them and then this summer brought in experts in pension reform? That was the subject we were into then.

I think various backgrounds are important and various geographical differences are very important because, as you well know, issues in the north are very different from those here. I think it is not a bad council, considering all things.

I think Mrs. Toye had a comment.

Mrs. Toye: The only objection I have to putting women from women's groups on the council is that they have a pretty strong lobby as it is, and who is going to look after looking into widows' rights? Who is going to look after looking into battered children and battered wives? The women's groups have their own little corner that they are interested in, and I would like to think that I am interested in the women in Ontario, period, and not any one lobby group. I am also one of these people who is supposed to have a free meal ticket.

Mr. Cassidy: Perhaps, Mr. Chairman, I can follow on from that because, according to the report we have here--I guess the 1983 report is not out yet--you had one substantial consultation in which presidents of a large number of groups representing many of the interests of or affecting women came together in November 1981, I suspect it was, and I believe that has been the pattern that has continued since then. Is that correct?

Ms. Barnes: Yes.

Mr. Cassidy: I feel uneasy about that, and the council has been criticized for the fact that it has one great big bash--I don't mean that it is a junket; I mean that there is one thing where there are an awful lot of people together--but that apart from that, there is not a regular process of seeking to reach out and talk with different groups representing many different groups of women with different agendas across the province. Why is that the case and what are you going to do about it?

Ms. Barnes: I guess travelling the province is a bit of a problem. In the spring we were going to tie in with an ag and food group that was going across the province, thinking that if they are spending that money to meet with women we will tie in and listen. We tried it a couple of times, but the subjects just didn't marry to each other.

We have them more regularly than you suggest. There was one last fall. As soon as I took over, we held one of those consultations, where about 25 individuals came in who represent

various interests--immigrant women or various groups and whatever. That was helpful. But travelling, I think, is going to be a problem in terms of time and money.

I travel personally making speeches. I try to meet with groups while I am there and I try to accept invitations that are somewhat varied. I spoke to the Haldimand-Norfolk Federation of Agriculture women to try to get a balance on that one. This week I am meeting the Canadian Federation of University Women on Friday. I try to balance it. I try to accept invitations in various parts of the province.

But again we are getting back to how much money you want to spend on this advisory council. How many people do you want to appoint to it with how much time to spend going around holding these consultations? Or, again, should the directorate perhaps be doing that?

Mr. Cassidy: Certainly, as Mike Breaugh pointed out, the chairman of the manpower commission is a full-time civil servant now, at least on secondment, and is making, presumably, \$60,000 or \$70,000 a year. From what you say, the president of the Ontario Status of Women Council is a part-time, per-diem non-employee with no benefits and making \$13,000 or \$15,000 a year. Perhaps to some extent that still reflects the priorities that exist within the government of Ontario and therefore the leadership that we perhaps reflect to people outside of this place.

3:40 p.m.

Ms. Barnes: I don't know. (inaudible) conclude on that score, but I guess the answer is, instead of setting up the directorate, should that money have been put into the council? A lot of money is going to go into the directorate now.

Mr. Cassidy: There is certainly an unfinished agenda, which you have acknowledged and which certainly we acknowledge. I would like to pursue just a shade longer when you said that you did not think that politically Frank Drea can announce increases in day care.

Now as you know, in fact the situation is the reverse. In Ottawa, for example, this summer we by the skin of our teeth evaded the loss of about 250 spaces in day care, which were a direct consequence of funding ceilings that had been laid down by Mr. Drea and his ministry. In that community there was tremendous frustration. I went to speak to a meeting that was widely representative of people from across the community, attended by maybe 200 people who came out during the day in order to make presentations to the relevant committee of the regional council.

In Toronto you have had very similar types of situations, where there was a tremendously strong public opinion running right up against the government. You have said yourself that rural attitudes, judging by the corn roast in Frontenac or whatever it was that you were at, seem to be changing substantially.

Is it really true that politically Frank Drea can't? Or is it something else, which is that for various reasons he won't?

Ms. Barnes: Correct me if I am wrong. I believe I did not say he cannot; I am just saying that he cannot announce as much and as fast as some of us would like. I think the government can do more, but for those of us who look at the figures and would like to see much faster and much more quantitative change, I think he cannot go that far until public attitudes come along with him, until he drags public opinion along with him. But yes, I remember the stalemate, that's for sure.

How are you going to deal with the problem that there are some empty day care centres too? It is a very complex problem. We have got to deal with the unions and the schools and whatever to get work place day care. I just see that as being one of the important things--work place day care.

Mr. Cassidy: Could Kay Toye perhaps comment a bit about what the council is intending to do with respect to technology? I gather that this is a recently commenced project. Is that correct?

Mrs. Toye: Yes, it is, and I have been attending many meetings on microtechnology. I was at one at York University early in the summer, a three-day meeting. I am also going over to the college in Welland on September 24, where the Liberal women's commission is holding a whole-day seminar.

We are just looking into it now, doing a great deal of reading and gathering material, and we are hoping that at some time we will be doing a brief on it. But my understanding is that Robert Welch is very interested in microtechnology for women.

I was also speaking to one of the administration people at Mohawk College the other day, and he says it is very difficult to convince young women to get into the computer business. He said he had tried and tried and tried, but single mothers especially still want to go into the child care or the social service worker type of thing. Once they have graduated, either they cannot find a job or they find that when they do get a job they are not making as much money or their take-home pay is not as large as their welfare cheque. He said it just is very difficult.

I do know that in mathematics and sciences there is no reason why a girl has to drop mathematics and science. She is encouraged, in a particular school that I know of, anyway. But the strange thing is that they do not try the mathematical contests. Whether it is because we still have not reached the stage of women being competitive or just what it is, for some reason they just do not.

Mr. Cassidy: I gather that the council is considering but has not yet decided to take this from the interest of one member to something you will work on as a group. Is that correct?

Ms. Barnes: I think, Michael, the problem is that it is a big subject, and everybody from Heather Menzies to you name it is doing studies and holding conferences. There must be three

pieces of literature that come into our office every week on yet another conference on this. At Couchiching it was a big to-do this year. We can run around and attend all these conferences. We can hold a conference ourselves, but it gets back to what can we do? How can we best target our time and our money and not just hold another conference or do another report?

We visited the government this spring to say "Look, your problem with high technology in this government is that everybody is concerned about it, but if that women's issue is not landing on anybody's shoulders, nobody is taking responsibility for it." We suggested at that point, "At least get the ministries together and hold a conference as the feds did." I am not suggesting it was as a direct result of that, but Mr. Welch has now announced that, beginning in November, there will be a series of mini-conferences across the province on high-tech and how it affects women. Especially targeted municipal officials and educators will be involved, will be invited to attend that thing. Heather Menzies is doing a paper for it. Our council is being invited to it. Probably Kay will be a member of the organizational committee which will climax in a large conference or whatever in Toronto next fall or summer.

You ask, "What are we doing?" I am saying we are worrying like everybody else and trying to see how we can best make an impact. Maybe we could pick out one little aspect of it and that is where we will zero in.

Mr. Cassidy: On that, I am prepared to go along with you in the sense that if something like that is taking place, it takes some of the heat off the council.

I would like to ask a different question in another area which is perhaps more controversial and less in the public eye in a positive way. What comments, reports or studies has the council produced, and I am thinking back over several years, about the unequal access to facilities for legal abortions in the province of Ontario? Within the context of the existing law, the fact is that while there is, let's say, substantial access to it in the Toronto area, in many parts of rural and northern Ontario there is limited or no access at all because of the different policies of different hospitals?

Ms. Barnes: Correct me if I am wrong, but I understand the only thing the council has done on that is to go on record as saying that it is a matter between a woman and her doctor.

Mrs. Vianna: Yes. (inaudible) at a grand council meeting along with the Canadian Advisory Council on the Status of Women and other provincial councils to say that it should be removed from the Criminal Code. The council is on record as supporting that position.

Mr. Cassidy: However, that is an area where I am not aware that Mr. Welch or anybody else has an expert who is making a report and is going to have a series of mini-conferences and so on. There is also an area where a body with the prestige of the

council, which is not perceived as being wildly radical--I am not being nasty in saying that, just not perceived as being a mainstream body--could be of substantial assistance in terms of opening up people's perceptions to the fact that there is a law in place, but that equal access to the facilities that ought to be available under that law for women of Ontario simply does not exist because of the different treatment in different parts of the province. Why has that not been done at any time by the council?

Ms. Barnes: First of all, (a) we are radical, but (b) I think we are mainstream. You say we are not mainstream.

Mr. Cassidy: No. I said that you are mainstream and you may be tough on some of your positions you have taken, but you are not perceived as being a bunch of screaming radicals.

Ms. Barnes: I guess the answer would be same problem, limited resources and time. Do we drop pensions and tackle abortions? I do not have an answer for why the council has not gone into that. Also, there has been a tendency to try and grapple with those ones on which we can be helpful, on which the council itself can come to some kind of a conclusion.

I can only tell you that in the last few months we have done a random sampling of the council and realized very quickly there is a great divergence of opinion within the council that would split the council pretty well down the middle. We would not reach a consensus I am convinced and I do not think we would be helpful to the cause. We would do more harm than good perhaps at this point until more of consensus develops. We would hurt whatever side of the fence you are on on that issue.

As you well know, it is an issue to which you do not get many converts. You have a very powerful lobby on each side. To jeopardize some good work we might do by heading along the course we are, perhaps by being seen as mainstream, by not getting into issues that will be too divisive, perhaps that is a way we can serve women in general. Perhaps that is not the kind of the approach you would take and others would not agree with this. Correct me if I am wrong, Kay, but I think the consensus informally on the council was to, "Let's tackle those things we can accomplish. Let's just stay on record as believing it should come out of the Criminal Code, but let us not jump into it at this point because we are not going to win it. We are only going to lose some of the supporters we have on other vital issues. Let us tackle the other vital issues first."

3:50 p.m.

Mr. Chairman: Mr. Johnson, you had a supplementary.

Mr. J. M. Johnson: I had a supplementary for one of Mike's questions earlier on affirmative action. Quite frankly, I am a little confused. I can accept equal rights and I know there are inequities in the work force. I find it extremely difficult to think of a case where you would have an affirmative action incident that would allow a woman to be hired at the expense of a

man supporting a wife and family. When you protect women's rights, you also have to protect the wives of husbands that work. If you take away the husband's job, you hurt the wives and children as well.

When you have affirmative action, is it not--in smaller communities, and you mentioned, Sally, that we as members should be addressing our constituents in trying to sell them on some of the problems you see. I can accept that. At the same time, you see some inequities in the smaller communities where there are maybe two extremely well educated people, a man and wife both working at jobs, and then many other people, neither man nor wife in the family is working. I find it hard to accept the philosophy that in some cases affirmative action would give a job to a woman and, as I mentioned, take away a job from a husband and father of the family. How do we rationalize that?

Ms. Barnes: I think you just say surely in the free market situation the best people get the jobs. If they happen to be men or they happen to be women, that is too bad. How else do you do it? Does every couple get a ticket and only one person can use the ticket? I think you are talking socialism, Mr. Johnson; I really do.

Interjections.

Mr. Cassidy: He wants women teachers to quit if they get married.

Ms. Barnes: Except to state--some state bureaucracy is going to go through every person and establish their need when they get a job; that would mean people who are independently wealthy could not work. We would only give jobs to the poor or whatever. I think we have to stick with what we have--the best qualified people.

Mr. J. M. Johnson: I want to take exception to it because if you started off by agreeing that affirmative action is the course we should be taking, that is interference. If we are talking about the government interfering, all I am simply saying is they should know what they are doing before they interfere. I am not saying there should be affirmative action; I have never said that. I think if it comes to the point that we do start interfering, then for heaven's sake we had better know what we are doing.

If you start taking a job away from a man because he is a man and give it to a woman and the woman maybe supports herself, where the man has a wife and two or three children, I think there is inequity in that, if the state interferes.

Ms. Barnes: But you see your idea of affirmative action and mine are quite different. Affirmative action to me is not taking anyone's job away from them. It is just making darn sure when a job comes open everybody gets an equal shot at it. That is why I believe the government of Ontario has been as successful as it has been. Mr. Cassidy would suggest it has not been as

successful as it should, but I have to tell you when Mr. Welch went to the ministers responsible for the status of women meeting in Ottawa in June, Ontario made quite a splash there.

Even the government of Alberta went home kind of clutching this position paper and saying, "We will give it a shot." Dick Hatfield went back to New Brunswick and made a public statement that he will bring the Ontario system into effect there next year, because it is fair and it does not do the kind of thing you are suggesting it does.

All it does, is when there is an opening in the Ministry of the Environment, the affirmative action people are saying: "Okay, now did you advertise it? What kind of candidates have you got? If there are no women, why are there no women, because there are no women yet in engineering or why?" All it is doing is guaranteeing an equal shot at it. It is not discriminating against anybody. That is how it should work.

If there are other cases that you know of, then those cases are not falling in line with the--

Mr. Rotenberg: There is a complication in affirmative action in other jurisdictions, mainly south of the border.

Ms. Barnes: Yes.

Mr. Rotenberg: That is with women. Affirmative action means that the person in that minority group gets a better shot at the job. Maybe that is what Mr. Johnson is talking about.

Mr. J. M. Johnson: I was thinking in terms of the quota system.

Ms. Barnes: That is how it got a bad name because it started with the States.

Mr. Rotenberg: You say, Sally, in effect, as we define affirmative action in Ontario, it has nothing to do with quota systems or negative discrimination. It is simply making sure that everyone gets an equal shot at a job. It is a different kind of affirmative action than in other jurisdictions.

Mr. J. M. Johnson: I think then maybe it would be beneficial to many people when they do express support for affirmative action to also define the quota system as not being part of it.

Mr. Epp: Mr. Johnson is saying men are now in a minority group in Canada. He just wants to make sure they get their rights too.

Mr. Breaugh: Well, we are and always have been--just recognized it.

Ms. Barnes: You guys have not been doing too badly lately.

Mrs. Toye: That is what we did on the council. That is why we only have two men. We did it by affirmative action.

Interjections.

Mr. Chairman: Order. Ms. Bryden.

Ms. Bryden: Mr. Chairman. I have been following the work of the Ontario Status of Women Council ever since it was instituted and I think it has done a lot of very valuable work in the past certainly, particularly in the field of family law reform, pensions, battered wives and a host of other subjects. But I think it is very valuable the committee is having an opportunity to meet with the new and the first president, I understand, by the new title, but with the new head.

I have known Sally Barnes in her career here at Queen's Park as a top-notch journalist and as a very competent press secretary for the Premier (Mr. Davis). She brings not inconsiderable talents to this job, so we are looking forward to seeing how the council develops and the council members, of course, are part of the process. I am glad some of them are here as well.

I think the question the committee has to find out more about is how the council fits in with the new women's directorate, since you are being brought under that directorate, at least as far as reporting to the House is concerned and as far, presumably, as a financial budget goes. Just how do you see your role in that directorate? Certainly, of the things the directorate has done so far, while you mentioned three things, most of them were in the works well before.

I think on the pension drop-out, the provincial Treasurer (Mr. F. S. Miller) had run out of excuses for not dropping the veto. In fact, his parliamentary assistant, I think last December, long before the directorate was appointed and the new Minister responsible for Women's Issues was appointed, had said to a meeting that the plans were to drop the veto shortly after the December federal-provincial conference.

As far as the interval houses up north go, that is the first step to implement the battered wives report, but only a fairly small one. I think the question of the operating costs of the interval houses has not yet been faced up to and they are still on a per diem that has to be shared with the municipalities. If the municipalities do not co-operate or do not set a high enough level, they are working from hand to mouth. I think these new interval houses up north are facing the same thing. I understand it is just capital costs being provided.

Over the weekend I heard one is being mooted for a northern community that already has a 17-bed interval house that it has been struggling to finance as far as the operating costs go. They have been offered another eight beds but no change in the operating costs or the counselling costs or the follow-up costs for, say, rehousing the women when they come out and that sort of thing if they decide not to go back. There is still a lot of work to be done even in the areas where the directorate is claiming that there has been some movement.

As Mr. Wrye pointed out, there has not been movement on a lot of the other areas like equal value and affirmative action and things of that sort. What I would like to ask is, how do you see the role of the council in working as part of the directorate?

4 p.m.

Ms. Barnes: Ms. Bryden, again, I think we are in the shake-down period where I want to find out what their priorities are going to be. I have met quite often with Glenna Carr--and I have a meeting with her this evening--to find out what subjects they are going to tackle and how we can further those same issues or head in different directions. We are going to be in the same building on the same floor, a respectable distance down the hall, but together we, along with the women's bureau, are going to combine our resources as far as the library is concerned and maybe open that up to the public. So there will be a fairly good, women's centre type of library available for the first time. That is just one proposal we have kicked about. But I really think I need a bit more time on that.

I think we can do the political thing that as public servants they cannot do. We can float the balloons and I can go around the province saying things that someone in the public service cannot say. I can certainly be more critical. I think we will share an educational responsibility and tackle some projects together and, on occasion, we are going to disagree with each other, at least in public. We will try to do the things that they cannot.

Ms. Bryden: So you still feel that the council will have considerable independence, that it is possible you could criticize the bureau throughout and where it is going, or suggest policies that are different from the policies it is pursuing.

Ms. Barnes: Oh, sure. And we are very aware that, for credibility's sake, we have to take exactly that path. In fact, we have already discussed that at one of our meetings with Mr. Welch. He knows, as well as you do, that we are not always going to agree with him, that he is not going to be able to bring about change as fast as we would want him to bring it. But perhaps by us using one method and him using another, we can get a little closer to the goal a little faster.

Ms. Bryden: Do you feel that if you do not get the increase in funding, particularly for research or for holding more consultations and doing more education of the public, if you do not get a substantial increase in funding for those purposes, do you still feel that you can play a role in the job of closing the wage gap and changing the attitude of the public, which you say is part of the problem, that until the public demands these things, we are not going to get the government to move?

Ms. Barnes: Yes. There will always be a role there. How big a role and how much we can do is tied in directly to how much the government wants to spend on it, in view of the resources we have.

Ms. Bryden: If you do not get any increase in funding, do you think the council maybe should be sunsetted?

Ms. Barnes: No. I do not think so. Even if we had to carry on the way we are, we have more than earned our keep. When I compare the \$170,000 to other expenditures by the government, I am hard pressed to think of any other \$170,000 that has produced as good results. They were very tangible results. But I am hard pressed--I believe it was the leader of your party who brought to the public's attention last year that the Ministry of Health spent \$200,000 on calendars to promote nutrition, as you will recall.

Mr. Breaugh: We heard that story.

Ms. Barnes: Yes. But that got a lot of ink.

Interjections.

Ms. Bryden: There was a correction issued.

Ms. Barnes: I know there was a sort of correction but the total was right. It was just the breakdown that was wrong, as I recall. But that brings it into perspective. Someone, a reporter, says to me, "Ah, it is the tenth anniversary. What have we got for \$170,000?" I say, "It is hard. You cannot--" All those changes that I mentioned earlier to Mr. Wrye, how do you trace those back and say who is responsible, or what group, or who did what to whom? Equally, how can I tell you how the cause of nutrition was furthered in this province by that \$200,000? How do you figure what you get for your money in this business? But I think as taxpayers, you get your money's worth out of this council, and more.

Ms. Bryden: I think you said you are planning to make a study of equal value this fall. Am I correct that is on your agenda?

Ms. Barnes: Let us say it is on mine, because people keep asking me--the media, and you people today, as I suspected you would--"What is your position on this?" I keep saying that I have got to learn more about it. So this fall I am going to learn more about it.

We have the excellent report, which we will be pleased to share with you, from a summer student. That is just the first step. I want to talk to more people on that whole subject. Yes, one of my priorities for the fall is to get further into that whole subject, to learn more, to find out how we can be helpful.

Ms. Bryden: Do you think it will take all of your research budget, which in the past has been about \$15,000, and will you be able to do other research if you make this a major research project for the fall?

Ms. Barnes: I keep hearing about this research budget and I am a little bit buffaloeed on that. All I know is that we are given X amount of money and we kind of set our priorities. If we

do not spend X amount on bringing our members to town and holding consultations, we can spend that much more in research. I do not know what this mythical \$15,000 research budget is. We have the \$170,000 and we decide, with ministerial approval to some degree, now we are going to spend it. We can blow the whole thing on a project of equal value if we believe that is what we should do.

Ms. Bryden: But that would make it rather difficult for all the other areas that you are expected to comment on.

Ms. Barnes: That is the problem. There are all those subjects that we want to get into. We have this summer thing as a step off but, again, so much has been done. It is a case of sitting down and sifting through the tons of information. Maybe a committee of this Legislature should go to these jurisdictions that have this program and see if it is working. Maybe these people should go to Quebec and say, "Okay, if it is so great, show us how it works." Some people go around and say, "Oh, Quebec has got it." Golly, I will tell you that it is pretty discouraging to try to get information from those people who suggest it was worth the effort.

Interjection.

Ms. Barnes: We purposely hired a summer student who was bilingual and who could deal with Quebec officials.

Mr. Wrye: I am curious.

Ms. Barnes: Oh, I am sorry; Rebecca Kingston. She has no connection to anybody that we know. She just applied. We got lucky. We picked somebody who had--Miss Kavanagh, our legal adviser, chose Rebecca, after an interview.

Miss. Kavanagh: I think her father was with the government because the kids all picked up their French in the postings.

Ms. Barnes: At the federal level?

Miss Kavanagh: It could be.

Ms. Barnes: She is a bright young lady anyway.

Ms. Bryden: Have you yourself sat down with the federal administrators in this field? I know there are at least two federal civil servants who make a full-time occupation of working out the equal-value techniques. The feds have actually issued not only guidelines but manuals of their administrative techniques. I myself have sat down with one of what are called their compensation evaluation persons, or something like that, for several hours and have gone through their methods of weighing the factors and working out a composite evaluation.

As we know, they have issued awards, a very substantial amount, coming into the millions of dollars in the public sector, and they have also dealt with some private sector complaints. I

understand that they are very carefully picking and choosing the complaints so that they can develop a body of experience in different areas. It does not mean that their awards take a long time because there is a long queue, but I think it is probably the way at the moment to be working out a body of procedures and techniques. It appears to be working because I think that so far none of their awards has been seriously challenged, certainly none has been challenged by appeals in the courts or anything of that sort.

It seems to me that there is a ready-made body of knowledge and experience there which could be used right away to show that equal value can work. It might assist you in deciding whether we should be trying it in a particular ministry here or taking on one or two private sector complaints to see how it would work out. But, of course, you need an equal-pay-for-work-of-equal-value law before you can take on complaints on that basis and make the awards stick.

Have you met with the federal administrators on this?

Mrs. Barnes: No, I have not. I have met with the national advisory council on the subject. This project over the summer dealt with the feds as well as the government of Quebec. As I said earlier, a pilot project within the government might well be that step down the road. I have not reached the conclusion at this point that that is the best way is to tackle it.

I believe that in my lifetime we will have that legislation in Ontario. I honestly do. How long it will take and how we will get there I do not know. You will have to admit that one of the problems, with our economy being especially delicate, where over 60 per cent of the people who work in this province are employed in firms that hire fewer than 250 people, it is darned hard to set up an evaluation systems in those small plants. That is part of the problem.

4:10 p.m.

In the government of Canada you have the unlimited resources of tax money and you have hundreds of thousands of employees to do that. I guess the subject perplexes me a little bit because of the high expectations. The public health nurses in North York believe that on day one if the government would just pass this legislation, we will start paying them the same amount as we are paying the garbage collectors. There is this whole idea that it is a panacea, that with a stroke of a pen we can get rid these inequities. You know as well as I do that we cannot, that it is just one of many things we have got to do.

I guess the government can perhaps set an example by doing these things at taxpayers' expense, but I do not think they will do it until people, as well as coming to Queen's Park and saying, "We want equal value legislation," also say, "We are willing to pay the price. We know that that one settlement with the feds cost \$17 million, and we are willing to pay the price." The groups who come here never say that, Ms. Bryden. Being a politician, you know that if they did it would help the cause, but not with something

"We want it" but with no indication they are willing to pay the price, and it would be a high price.

I think we work towards that, but it is only one of many answers to the full problem. It is not a panacea and people should stop regarding it that way.

Mr. Wrye: Is the council monitoring the lawsuit that is now under way, I believe, in the state of Washington on this whole matter, a lawsuit brought by a government employee?

Ms. Barnes: No. The women's bureau of the Ministry of Labour is, I am told. I know the one of which you speak.

Ms. Bryden: You say it would be very costly, and maybe employers or the general public are not ready to see that cost. But in this time of economic recession we keep thinking of ways to increase the stimulation to the economy and to increase purchasing power. It seems to me that some substantial awards like the federal one would pump a lot of money into the economy that would be spent instantly by all these women who have been undervalued over the years and who have been underpaid on the basis of equal-value legislation if it were here. Would that not be a real shot in the arm to the economy, and can it not be justified on that basis?

Ms. Barnes: It sure would. It is a good argument that has not been made.

Mr. Rotenberg: It would pump a lot of money out of the economy too, because you have to take taxes away from other people making money to pay the women. So what you lose on the bananas you make up on the carrots.

Ms. Bryden: We keep talking about tax cuts. We actually make tax cuts in the sales tax field that benefit some of the upper-income people; that takes money out of the taxpayer. But this is another form of pumping money into the economy rather than a tax cut that benefits only those who pay high taxes.

Ms. Barnes: This is getting too partisan for me, I'll tell you.

Ms. Bryden: You did, I think, mention that equal-value measures would, of course, be only part of the solution to closing the wage gap and that affirmative action and opening up the nontraditional jobs, opening up the training courses and so on is equally important. Do you agree that if we need affirmative action in order to do this, it really must become mandatory, because how are you going to do the double-barrelled job of closing the wage gap?

Ms. Barnes: I think I referred to that earlier too. It has been one of the perplexing things to me since I got into this whole cause. All the answers, the quick fixes to a lot of the problems we face, seem to be government intervention: legislate, have mandatory affirmative action, equal pay for work of equal

value, all those things. Yet I personally do not like that kind of intervention in our economy philosophically. I also have to remember that the majority of people in Ontario do not want that kind of thing, so it is a constant battle. I do not know if quick fixes work in this kind of society in the long term.

In the speech I made today to the Republican women I was saying, "Boy, it is tough to marry a lot of these things with the free market forces." But we can do it. It is just going to take longer and it is going to require a lot more commitment and perseverance than it would in a more socialistic type of environment where you can do those things. It is tough. All philosophy aside, it is really tough to rectify those changes quickly by the kind of thing you are talking about when it does run counter to the kind of economy we have.

Mr. Breaugh: Maybe we should just turn women's rights over to Ontario Hydro.

Interjection: That would solve it.

Mr. Rotenberg: You would get a real charge out of that.

Ms. Bryden: In the field of occupational health and safety we did not get very much action until we made it mandatory to have occupational health and safety committees in work places of a certain size. What incentive is there really for employers to put in affirmative action programs unless everybody else is doing it or unless their counterparts, their branch-plant economies, are doing it in the States? There are all these inhibitions and the lack of incentives to employers. Does this not indicate that in order to make it fair and to cover the majority of women--you may have to stage it in with the larger firms first, but certainly ultimately you would hope to cover the whole province, because equal opportunity should apply in every work place--you have to have mandatory action, the same as you do in occupational health and safety?

Ms. Barnes: It would be the quick answer, but I am not sure it would be the right answer in the long term. I just do not know if it will work here. You can legislate the use of seatbelts; that is no problem. But can you legislate--

Ms. Bryden: You were here in 1975 when we legislated it.

Interjections.

Ms. Barnes: I can be darn mad at the government, but I will still go and put my seatbelt on. But can you change my attitude so that if two people come in to apply for a job, I am going to give the woman the same break as the man? That is the difficulty, you see, and that is why I say that in our kind of free market economy I think we just have to go a little slowly, because I do not think you can marry all these mandatory things with the kind of society we have got.

These are the quick answers. I know that and I am frustrated about making changes. I would like to keep thinking we will change public attitudes and we will do this. I can understand why people such as you, who have been at this long and hard, get a little frustrated. But I am not sure the other process will work.

Ms. Bryden: Have you studied the US equal opportunity law?

Ms. Barnes: Yes. Both of you, I guess, were talking about that. But the backlash, you see, is at the point where Mr. Johnson thinks that affirmative action means you are going to prevent some guy from getting it. They have had very bad reactions in the United States by going the way they have, and I am not so sure we should copy that. Maybe we are going in the right direction.

Certainly when Mr. Welch presented the paper at the national meeting in Ottawa, those other provinces--you know Alberta as well as I do. If we can bring them along as far as we are so far, we will be making great progress. We are a different kind of cat up here north of the border, I think.

Mr. Cassidy: Can I just ask a supplementary? I would like to address it to Mrs. Toye because she has been on the council since June 1980. Just before you came on, there was the Employment Strategy for Women in the 1980s document, which was produced by the council, and it took an unequivocal position in favour of mandatory affirmative action in the private sector. It did not say specifically what each affirmative action plan should contain, but it did say quite clearly that employers should be required to come up with affirmative action programs.

Now your president is saying that personally she questions whether that is the way to go, and I would just like to ask, has the council in fact retreated from the position it took when you came on in April or June 1980?

Mrs. Toye: No. As a matter of fact, that has really not come up again as one of our issues, because we have done these other briefs, and that was put in just as I came on. It was completed before I came on.

Mr. Cassidy: I realize that, but I presume that the council, when you joined it, accepted this view. But the president now is reflecting another view on the affirmative action program.

Mrs. Toye: That would be the council before I came on. That is their view, and it has not been brought up again. The other council members have not been asked their view on that.

Mr. Cassidy: But with the overlap the council that you were on was not very much different from the council in April 1980.

Mrs. Toye: No, but that was a policy that was made. What I am trying to say is that that is the policy that was made by that council at that time, and no new policies have been made or brought up. So this is why Sally--

Mr. Cassidy: That is the policy of the council now, if nothing has been changed.

Mrs. Toye: At that time, yes. It has not been changed. If the present council wants to take another look at it and change it, then--

Ms. Bryden: Just one final question. Are you looking at the possibility of family law reform review of the act now that it is five years over? I know that the Attorney General's department has been doing an internal review. I do not know whether the council has been asked to participate in that or not, but I would like to know whether they have and also whether you think it is necessary to have some public hearings before the changes are brought in on the act. Certainly the council did a great deal of very valuable work in bringing women together to discuss the family law reform before it was passed.

4:20 p.m.

Ms. Barnes: I guess we are missing the boat somewhere because I am awfully disappointed you do not know that we presented an excellent brief to the Attorney General. We were assisted in the writing by a family law lawyer. It was presented in March after consultations with several family law lawyers and women who have been through various unpleasant divorce settlement experiences. If you do not have a copy of that brief, Ms. Bryden, we will send them over. They are widely circulated throughout the province. Most members of the Legislature were given them. I am disappointed you have not received it.

Ms. Bryden: I seem to have great difficulty staying on your mailing list. I do not get your regular newsletter or anything like that.

Ms. Barnes: I think you would be quite pleased with the brief. There was a press conference and a fair amount of publicity about the brief at the time.

Mr. Epp: It was just sent to one side of the House.

Ms. Barnes: No, it was not.

Mr. Epp: I am kidding.

Ms. Barnes: We will certainly get you copies of that.

Yes, now we are going to the internal process. I understand there will be green paper, at which point the council will compare the green paper with what we recommended and then take another shot at it. Currently in Ontario there is an organization of lawyers who are circulating a questionnaire to all family law lawyers to try to get their reaction on it because, as you know, the bar association was kind of split down the middle on the subject. There is now a movement to try to get the family law lawyers to tell the government where they stand on it. It is going to be quite controversial, but I think we will see change in that field. I this council will be quite instrumental once again in helping bring about that change.

Ms. Bryden: Do you see the need for public hearings on before there is change?

Ms. Barnes: I have not thought about that. Certainly they have received an excellent number of briefs. Most interested groups have already responded to the Attorney General's invitation. Most women's groups I know got letters from the Attorney General inviting them to write him or present a brief. Several of the groups we know have already done that.

I do not know whether there would be any advantage to public meetings in addition to what has already been received. I think he has received a fairly good response from the public already. I think now we are at the green paper stage or hopefully so because, as I recall, he promised to have legislation in the House by next December. As I recall it, in December he stood up and said he was going to take another look at the legislation and would bring in changes within the year, so I think we are getting down to the fall for a green paper.

Mr. Breaugh: Can I have just three quick questions? Are you satisfied that as an employer the province of Ontario pays equal amounts of money for equal types of work?

Ms. Barnes: Equal pay?

Mr. Breaugh: Yes.

Ms. Barnes: Equal pay for essentially the same--

Mr. Breaugh: For work of equal value.

Ms. Barnes: For work of equal value?

Mr. Breaugh: Yes.

Ms. Barnes: I do not know because, again, I have not had a chance to look at the two jobs. I know the people who answer the switchboard in Government Services do not get paid as much as the guys who stand out in the snow and try to find parking spots for you people and the press gallery.

Mr. Breaugh: That is because we told you.

Ms. Barnes: Both of those groups of people take a lot of abuse. I do not know. There is an example. Should they? If I had my choice between the two, I do not know which I would take. You tell me which of those two jobs is more valuable. I do not know that. That is an example, I know, of an inequity in pay.

I know that men are now answering the telephone. They have been hired on the switchboard. I have talked to people in Government Services to ask how many women applied for the last opening among the parking lot guides? I am told just one applied the last time and she was not a good candidate but the person in charge of hiring happens to be a women who assures me that next time around she is going to try to drum up some more good women candidates for those jobs.

That is what I say, instead of waiting until we do this thing called equal value, let us already make a start and say to women: "Look, there is more money out in the parking lot than there is in the switchboard room. If you want to put up with the elements of winter and the ugliness of MPPs or the press gallery because someone has taken their parking spot, get yourselves out there and apply for that job instead.

Mr. Breaugh: Second one: Can you name me one piece of legislation where you think the battle has been won?

Ms. Barnes: With regard to women?

Mr. Breaugh: Yes.

Ms. Barnes: Give me some examples of what particular field you are thinking of?

Mr. Breaugh: Anything. I do not care.

Ms. Barnes: I do not think one piece of legislation can win any battle, Michael. My goodness--can it?

Mr. Breaugh: Sometimes.

Mr. J. A. Taylor: Let us have an example.

Mr. Breaugh: I could--no, I won't. When we write our report about how the council functions and what the government might do that would make things better, more effective, what is your chief recommendation? What do you think this committee should recommend that the government do to make this council more effective than it is?

Ms. Barnes: I think you have to decide that. We came here today to say, "Look, here is who we are and this is what we have been doing and this is what we hope to do." If you people think we are providing a valuable service and that we could provide a more valuable service, then I think it is up to you to recommend to the government that they put more time and money into it.

If however, you think it is just an advisory council like other advisory councils, I guess you leave it the way it is. But I cannot suggest that to you. I think you are responsible members of this Legislature whose duty it is to look after the taxpayers' money and I think you have in your own minds to establish what it is that is needed. I am anxious to find out what you people think our role is. We are looking for direction on that too.

Mr. Breaugh: Let me just rephrase that for a minute Sally, because there have been a number of agencies we have reviewed where nobody has ever asked them what little thing, what nuts and bolts of operation--is it money, a relationship, a legal letter of intent between the government and your agency--could happen that is not going to ruffle a whole lot of feathers but would make your job a little easier to do and you a little more effective.

I want to kind of put that same kind of question to you. Is there something that has been kind of nagging the council for a period of time, or something you just came across that the committee could recommend that is not going to cost billions of dollars but which could make your job a more effective one?

Ms. Barnes: I would want to think of that more. I think we are going to reach the point where we are looking at more funding if we are going to carry on, even at the rate we have been, or get into the many issues you people have brought up today. If you think you are getting your money's worth and you would want us to do more, you had better recommend greater funding. Beyond that, I would want to think about it; I really would.

Mr. Chairman: Thank you. Mr. Wrye.

Mr. Wrye: I was going to ask you something on affirmative action, but I think I will skip it. Let me just get to one issue that kind of bothers me and I guess gets into the relationship between the council and the new minister responsible and the directorate.

If I am not mistaken, you are both either going to be or are already at 880 Bay Street. Is that not right?

Ms. Barnes: We will be, I guess in the fall sometime.

Mr. Wrye: Are you bothered at all or is the council bothered at all by being as an advisory council a step removed from the women's directorate? The women's directorate are ministry bureaucrats. You are not ministry bureaucrats. You are allowed to take your own independent stance under your own mandate to lobby the government for issues as they pertain to, as you perceive them, making economic and social gains for women. Are you bothered by being in the same building, perhaps on the same floor, that somehow you are open in a sense to being co-opted or at least accused of being co-opted by the minister responsible, obviously a charming friendly guy?

Ms. Barnes: In that we have already discussed that and realize we have to be a respectable distance down the hall, I see any negative effects on being too close being offset by the positive, the advantages which I mentioned, such as that we are going to be able to get our hands on the excellent library now owned by the women's bureau in the Ministry of Labour.

We are always running around other places to get research material for speeches and whatever. There is going to be one place now where women can walk in off the street and kind of deal with these various things. The fact we are down the hall, I do not think is going to co-opt us. I think the advantages will outweigh the disadvantages.

I think they would be very conscious of that, but we are conscious of that already. They used to be together in Ottawa strangely enough and they separated. We are kind of going the

exact opposite route. I think it can be a real advantage for me to work very closely with Glenna Carr. I do not see that as an adversarial relationship. I think if I have some idea of where they are going and they are more apt to get there if I float a few balloons, I will do that for them.

Mr. Wrye: If Glenna and the directorate were to say: "We are going to take up this equal pay thing that has been with us for a long time and we have to kind of seize things, so we are going to do the study on equal value and the composite approach and see where we are going to go on it," can you see yourself saying: "That is all well and nice. You do your study for the minister within but we are going to do our own study"? Do you think that you will have, that you have today and will continue to have, that kind of independent mind?

Do you think it is useful to say: "You do your way and do your study. That is very nice. We have also decided we are going to do one and we have no intention of stopping just because you are doing one. You are a government agency. I can pull your punches. We are not here to pull punches"?

Ms. Barnes: But at the same time we nibble off the hunk that we can chew. We will take an area that perhaps won't interest the directorate but that definitely interests us, maybe a more controversial aspect of it. We might evolve the same research base. If they have the money and they are going to do the research, I am not against using that research. But then we will go off in our own direction to formulate our conclusions and recommendations.

Mr. Wrye: One last question. You said as up to this committee to write its report. Your budget is \$170,000. Is that enough? Never mind what we think your budget ought to be. You have been at this a year or so now. Do you think it is enough, or do you think the public out there when they "The Ontario government and the legislators have set out nice advisory council," somehow have the perception that ought to be doing more than 170 grand will buy?

Ms. Barnes: As I said, last year we were budgeted by \$5,000, I think, because of additional expenses the family law reform brief. When the day comes that there is something that is pressing, that is crucial and the bank is empty then I will scream. But right now it has not been a problem. As I say, I expect it will be this fall. My involvement is costing more than did the old regime. But we haven't reached that point yet. I expect, yes, we do need more. But when you say "What projects specifically do you want to do and what is it going to cost?" I cannot help you with that. We are trying to figure out where we fit in in this new role and what projects we want to go on and how much they are going to cost.

Mr. Chairman: I think that completely satisfies the members. I thank all of you for appearing before us and for being so friendly.

Ms. Barnes: We await your report.

The committee adjourned at 4:32 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO MANPOWER COMMISSION

TUESDAY, SEPTEMBER 13, 1983

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Breaugh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Edignoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Reid, T. P. (Rainy River L-Lab.) for Mr. Mancini

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

From the Ministry of Labour:

Armstrong, T. E., Deputy Minister

Rose, J. B. S., Executive Co-ordinator, Ontario Manpower Commission

Wolfson, Dr. A., Chairman, Ontario Manpower Commission

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, September 13, 1983

The committee met at 10:12 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS
ONTARIO MANPOWER COMMISSION

Mr. Chairman: A quorum being in place, I think we should proceed. This morning appearing before us is the Ontario Manpower Commission. Dr. Wolfson, the chairman, is with us and Barry Rose, the executive co-ordinator. If a gentleman comes in later, he will undoubtedly be Thomas Armstrong, who sits with them.

I think, gentlemen, you have a brief in front of you of some comments of the chairman. Dr. Wolfson, perhaps you would like to read that or refer to it.

Dr. Wolfson: Thank you, Mr. Chairman.

Mr. T. P. Reid: Mr. Chairman, if we are proceeding without Mr. Armstrong, who has overall responsibility for this, I wonder, just before we get to that, if Mr. Armstrong is going to be here. I have some questions I want to ask him about the matter that was raised yesterday in regard to the women's employment strategy report that we have been promised for some time. Is Mr. Armstrong going to be here?

Mr. Chairman: He is listed on the agenda as appearing, but I am afraid that if he does not turn up, you are going to be disappointed because we cannot wait. He is supposed to be coming.

Mr. Epp: Could somebody check?

Mr. Chairman: Dr. Wolfson said he is expected and he had a meeting until 10 o'clock.

Mr. J. M. Johnson: Why can we not hear the presentation now?

Mr. Chairman: Yes. After all, we really have not subpoenaed witnesses here. Whoever turns up speaks to us and whoever does not turn up does not.

Mr. T. P. Reid: I think I can follow that reasoning.

Dr. Wolfson: Mr. Chairman, I would be very surprised if Mr. Armstrong is not with us shortly.

Mr. Chairman: Fine, thank you. I think you should carry on with your presentation.

Dr. Wolfson: I will take as long as I can to ensure that he arrives before you are ready for questioning.

Mr. Chairman: Or you will stretch your opening statement to the end of the day. Is that what you are saying?

Mr. Epp: You can speak as long as you like. We leave at 12:30.

Dr. Wolfson: I don't think I can make it quite that long.

Mr. Chairman and members of the standing committee, I am pleased to be here this morning and I would like to thank you for this opportunity to review with you some of the purposes and achievements of the Ontario Manpower Commission.

In the summer of 1979 the government of Ontario established the Ontario Manpower Commission to oversee all its manpower programs, including those related to training, counselling, job creation, work experience and labour market information.

Initially, the commission was to report to the cabinet through the Minister of Labour. However, in order to promote the co-ordination of manpower programs in various ministries, as indicated in the mandate of the commission, in January 1982 the government created a cabinet committee on manpower. This committee consisted of the ministries of Labour, Colleges and Universities, Industry and Tourism, Treasury and Economics, and Northern Affairs. The membership was expanded later last year to include the Ministry of Community and Social Services and the Provincial Secretariat for Social Development, and just recently the Honourable Robert Welch, the Minister responsible for Women's Issues, joined the committee.

Since the formation of the cabinet committee on manpower, the chairman of the manpower commission has reported to cabinet through this committee rather than, as formerly, through the Minister of Labour alone. As you are aware, however, the Minister of Labour chairs the cabinet committee.

At the time of the commission's creation in 1979, some 30 manpower programs were operating in a dozen or more ministries and agencies. Approximately \$230 million in federal and provincial funds were being spent in these programs, mostly going towards adult occupational training and job creation, although programs related to labour market information were also significant.

It was recognized by the government that such a substantial effort being undertaken in a diversity of ministries required an effective co-ordination mechanism to prevent fragmentation of manpower policy and program delivery. Thus the Ontario Manpower Commission from its inception was called upon to develop and articulate clear Ontario positions with respect to manpower issues, to promote interministerial co-operation and information flows on manpower matters and to ensure that Ontario in its corporate manpower interests would be consistently represented in dealings with the federal government and other jurisdictions. Moreover, the structure of the commission would allow for the timely and effective input of business, labour and the education community into the development of manpower policies and programs.

Let me share with you now some observations on the background to the composition of the manpower commission. In June 1978 the province sponsored a major conference on skills for jobs. This effort succeeded in bringing together representatives of industry, labour, government and other interested parties to look at problems related to matching available jobs with available skills in the labour force. Such tripartite exchange and collaboration was understood to be essential in coming to grips with the need for a labour force trained and deployed in a manner appropriate to the emerging patterns of economic growth in Ontario. These patterns were new and, with the impacts of technological change as yet undefined, more difficult than normal to predict and accommodate.

Essential to any effective manpower planning response was, as the participants at that conference recognized, a consistent and sensitive labour market forecasting system that would incorporate the perceptions of all the major actors in the process, including business, labour and government. As the Minister of Labour was to subsequently state in 1979, there would be an ongoing need to "mobilize community support and participation" in scanning Ontario's present and future labour requirements. Also essential for successful manpower activities, he added, was "local participation in training, counselling and placement as well as in the collection, analysis and communication of timely and accurate labour market data."

Mr. Chairman: Excuse me. Might I simply observe that Mr. Armstrong is now with us and is seated. Thank you.

Dr. Wolfson: Mr. Chairman, these basic themes have remained a constant in the subsequent efforts of the Ontario Manpower Commission to provide input to the government of Ontario in manpower and employment development areas. From an original five-member commission we broadened membership to 10 in January 1982.

As you are aware from the information made available to you earlier, the commission is now composed of three senior executives from major industries in Ontario, three prominent labour leaders and high-level representation from the university and community college sector. I am the full-time chairman.

More recently we have invited the deputy ministers of Labour, Colleges and Universities, and Industry and Trade to sit with us in an ex-officio capacity. The inclusion of these senior public servants in our deliberations will both enhance the quality of our work and facilitate the implementation of our policy and program recommendations.

I do not believe that we can overstate the importance of establishing such consensual approaches to the resolution of our economic problems. It is time that we took a leaf from the more successful strategies employed in Europe and Japan to bring the various parties together--labour, management and government--in a concerted attempt to resolve policy issues. The Ontario Manpower Commission, in fact, represents one attempt to establish such a structure within the context of the province. We will need more such strategies and we will need them at the federal as well as at the provincial level.

For the time being, however, we like to think that at the commission we are perhaps engaged in the development of a prototype that might be applied to other areas of policy development and in other jurisdictions. The breadth of representation and the seniority of the individuals involved give the commission a structure for furnishing to cabinet recommendations stemming from broad contact with the Ontario community.

We have also set up a mechanism that enhances our ability to aid in the implementation of policy by being in close touch with the practical concerns of that community. This, as you well know, is essential for effective program delivery.

Further to the notion of mobilization of community support, referred to by the Minister of Labour, let me cite a few additional examples of the commission's activities. Our labour market forecasting responsibilities involve ongoing development and maintenance of comprehensive forecasts of manpower needs. Assessment of the implications of forecasts of critical skill shortages for training and labour market adjustment purposes is also required. The system uses computerized forecasting models to analyse alternative economic and demographic scenarios. We recognize, however, the limitations of any mechanistic approach.

We have, therefore, established close linkages with the province-wide network of community industrial training committees developed by the Ministry of Colleges and Universities. These are community-based advisory groups composed of local employers, union members, training institutions and field representatives of various federal and provincial government agencies. Our access to this network ensures we have firsthand field intelligence on local needs and shortages, along with employment trends in specific industries and occupations.

We are, therefore, in a stronger position to make recommendations about the orientation of provincial and federal funding of training programs to focus on the province's most important areas of need. I might note here that the Ontario Manpower Commission participated with the Ministry of Colleges and Universities in the negotiations leading to the enactment of the National Training Act and the consequent federal-provincial agreement giving major new recognition to joint consultation and decision-making between the two levels of government.

As co-chairman of the joint committee which implements these procedures, I can assure you that the comprehensive Ontario labour market forecasting system, as reinforced by field intelligence from all sectors of the community, will continue to be an important element in our efforts to secure from the federal government the most appropriate program funding.

Indications are that the federal government badly needs this provincial expertise with its closeness to the grass roots. We will continue to watch to make sure that some of the more ambitious claims regarding the federal government's new Canadian occupational projection system are measured against the more sensitive and realistic approach of the province.

Another example of our "mobilization of community support" occurs in efforts to promote the expansion of industrial training. As the Premier of Ontario (Mr. Davis) noted at the Premiers' conference in Halifax last year: "More than anything else, we need to move forward now on both levels of government to work with the industrial community to achieve our training objectives. Both labour and management must be involved and must join together with government in a collaborative enterprise."

The Premier went on to state that private sector involvement was required at every stage in the training process: identifying the needs, designing the policies and programs and implementing those programs. This is particularly necessary with respect to on-the-job training which, because of traditional reliance on immigration for skilled labour, has often remained underdeveloped.

The manpower commission recently released a detailed document setting out a strategy for dealing with this issue and calling on industry to assume a greater role in the training of workers.

I have taken some time to elaborate on certain aspects of the manpower commission. I think you can appreciate, though, the uniqueness of the commission's role and the particular advantages of its tripartite structure. Likewise, I am sure you can understand how important it is that the commission play its essential co-ordinating role within the overall structure of the Ontario government.

Our community support gives special impetus and credibility to the commission's efforts to bring provincial ministries into fuller awareness and greater responsiveness to the province's overall manpower needs.

The commission's role within the structure of the Ontario government is complex. In many respects the commission functions like a central agency of government, being directly accountable to cabinet with responsibilities for co-ordinating, reviewing and evaluating specific programs across a number of ministries. In other respects it performs a role similar to a provincial policy secretariat with attendant responsibilities for research, analysis and policy development.

Yet it also retains certain executive-type functions with respect to the implementation of government policies in the manpower field. For example, this latter is evidenced with regard to the commission's role in recommending allocations of funds within the youth employment envelope and in evaluating its programs. Furthermore, the manpower commission recently assumed responsibility for the administration of the \$220-million Canada-Ontario employment development program, the joint job creation program of the federal and provincial governments.

The employment development role of the commission is likely to continue for the time being, especially with respect to the integration of necessary short-term job creation projects with more comprehensive longer-term employment strategies of the

province. Funds provided through the COED program have now been fully committed. Some \$220 million in projects have been approved, which will result in the creation of 28,000 new jobs for persons who have exhausted their unemployment insurance benefits and are on welfare.

We are pleased to have played a significant part in assisting the province in the design of its own approach to job creation and, subsequently, in working towards an agreement with the federal government in a way that allowed Ontario concerns to modify original federal program directions.

We are also involved with the federal government on another job creation program, one that utilizes unemployment insurance funds under section 38 of the act. In this program, laid-off workers receiving UIC benefits can participate in a job creation project without foregoing their benefits. In fact, in addition to being usefully engaged in productive activity, these workers receive an enhanced benefit. The province provides supplementary funds both to top up wages and benefits and to provide materials and supervision. Our main orientation in this program is towards projects sponsored by the private sector since it is here that permanent jobs can most readily be created.

The commission has thus been active in the government's short-term job creation efforts. As the recovery proceeds, however, we must turn our attention to longer-term employment development policies. Thus far our work in this area has focused on two dimensions of the problem: the needs of special groups within the labour force and the employment impact of new technology.

Since its inception the manpower commission has concerned itself with the employment needs of disadvantaged groups. We have done extensive research into the employment experiences of youth, women, native peoples and the handicapped. Our work in the area of youth and the handicapped has already been published; the background papers on the employment of native peoples and women will be released shortly.

The main focus of our policy development efforts thus far has been on youth job creation. The commission's research in this area, undertaken in collaboration with the Ontario Youth Secretariat, indicated that employment-disadvantaged youth, school dropouts, racial minorities, etc., constituted the most serious youth employment problem for the 1980s. Programs developed in the 1970s, however, had concentrated mainly on creating summer jobs for students; that was the need at the time.

Accordingly, it was suggested that a youth employment envelope be created and funds be redirected within it to provide more support for out-of-school youth on a year-round basis. This recommendation was accepted by cabinet in 1981 and the commission was given the responsibility for recommending annual funding levels for the various programs within the envelope.

Since that time the budget for the Ontario career action program, for example, which provides training and job experience for out-of-school youth, has grown by over 60 per cent. This program, delivered by the Ministry of Colleges and Universities, now has a budget of almost \$18 million.

In addition to that, a new program directed at employment-disadvantaged youth, the winter experience program, was created last year. This initiative is administered by the Ontario Youth Secretariat and even in its pilot stage is receiving almost \$5 million in funding.

We have recently undertaken a comprehensive evaluation of all the programs in the youth employment envelope and we will be shortly be reviewing the direction we think programs in this area should take over the next few years.

Our work with respect to other special groups in the labour force has also been proceeding. We have now completed background research into the employment experiences of women, native peoples and the handicapped. In the first of these areas we will be assisting the new Minister responsible for Women's Issues (Mr. Welch) in developing employment policies which will promote opportunities for the female labour force. We will also be bringing recommendations on employment policies for natives and for the handicapped to the cabinet committee on manpower within the next few months.

The next major item on the agenda of the manpower commission relates to the manpower and employment impacts of new technology. Our efforts in this area will be an important complement to the work of the Ministry of Industry and Trade in promoting the application of new techniques in Ontario business and industry through the recently established network of technology centres.

The necessary adaptation of our economy to new technological developments cannot take place smoothly, or perhaps at all, if we do not address ourselves to the human dimensions of this transition. There will be a need to rethink our training and retraining strategies to cope with the challenges of new technology. New labour market adjustment policies and practices dealing with severance pay, mobility, occupational health and the like will also have to be discussed and evaluated. It is vital this discussion take place in an informed and co-operative manner.

10:30 a.m.

There has been far too little basic research done on the precise nature, magnitude and timing of anticipated impacts of new technology. No one doubts that the impacts will be significant in some sectors for some occupations, but whether the net result will be positive or negative in terms of net employment effects is still very much an open question.

There is far more speculation now available than reporting on actual experiences, either here or in other jurisdictions. This is a gap that must be filled before sound policy and program

development can proceed, and it is a matter of priority now for the commission. We have already done considerable work in estimating future manpower requirements of the microelectronics industry itself. We are now turning our attention to the employment impacts of this technology as it is diffused throughout business and industry.

We do not know, of course, what results our study will yield, but let me share with you some of my own speculations on the subject. I must say that I am not as pessimistic as some observers of the scene. First, I think we must put these developments in an historical perspective. In the late 1950s and early 1960s the same kinds of concerns were expressed regarding the labour displacement impact of automation. We were told by some that a post-industrial era was upon us, where leisure would replace work and new forms of income distribution would be urgently needed. This simply did not happen.

Instead, we experienced vigorous growth in output which not only allowed employers to retain existing work forces but to accommodate large numbers of new entrants as well. We witnessed the emergency of new industries and new sources of employment growth. Might not this happen again? I suggest that it is easier to identify where employment may decline than to imagine the scope and nature of businesses and industries that have hardly begun to emerge.

Whatever happens, the change in the labour market will not be instantaneous. Most new technology is still embodied in new machines, and replacing an economy's capital stock is a process that takes years, if not decades, to complete. We must be careful then not to overdramatize the pace of new technological transformation. The economic recovery we are now experiencing is driven by the demand for cars, houses and washing machines, not just word processors and robots.

Finally, I think it is important that the introduction of new technology be placed in context with other important developments in the labour market. At the same time that these productivity enhancing techniques are coming on stream, we are experiencing a significant change in the composition of our population that requires our labour force to be more productive.

As the aged comprise a greater and greater share of the population, and the economic dependency of nonworking people to those in the labour force grows, we will be able to sustain our standard of living only if productivity increases. In a sense, the introduction of new technology can be seen as making a timely contribution to accommodate demographic changes of unprecedented magnitude.

I stress these encouraging aspects of the impact of new technology on the labour market because so much of the current discussion is negative. Certainly, it would be naive to think that problems will not be encountered. Adjustments will, of course, be necessary and government policy will have to be developed to assist the adjustment process. We should, however, view the development and application of new technology as an opportunity as well as a challenge.

Mr. Chairman, I thank you for your indulgence during my own speculations on this important subject. We must now substitute knowledge for speculation and the manpower commission will be making a contribution to this field. We can then move in an informed way to address the many policy issues that arise from the impact of new technology on employment.

I suggest the commission is well suited to develop policy in this area by virtue of its tripartite composition and co-ordinating role within government. Both features are essential if the policy process is to be responsive to the realities of new technology in the economy.

Mr. Chairman, you can see that the commission performs a multiplicity of functions and roles, research, policy formulation, executive co-ordination and program administration, which causes any single analogy with an existing agency of government to be inadequate.

I realize that I have not gone into detail on all our plans and activities, but I hope I have given you a broad sense of our operations and their importance to the government of Ontario. I will be pleased to address any questions that you or the other members of the standing committee on procedural affairs may choose to bring forward.

Mr. Epp: I have a question, Dr. Wolfson, which has to do with a problem that has been raised in the Legislature from time to time, one that I see the government has not been grappling with adequately at all and, in fact, from time to time, even fails to recognize, that is, they have to import skilled labour into Ontario while our people in Ontario are not developing the skills to meet those needs in the labour force.

Aside from all the gobbledegook here that we have had, what are you really doing in order to meet that particular challenge?

Dr. Wolfson: Mr. Epp, I guess the first thing I should say is that I doubt there will ever be a time when there is no need for importation of skilled labour. The training of skilled labour is, as you know, a very drawn-out process and our ability to anticipate the requirements for those kinds of labour is imperfect; so I think there will inevitably arise situations within the economy where employers need particular kinds of skills that are not readily available and they will turn to the overseas market.

The commission, however, has been very concerned that immigration has been viewed by Ontario employers as the major source of skilled labour, rather than relying on the development of our own domestic resources. In this province we have developed a very extensive and well-resourced institutional training system through the community colleges, but that has not been complemented by an on-the-job industrial training system that really is required to finish off the training that is begun in community colleges to endow those graduates with the job experience necessary to turn them into productive, skilled workers.

The commission has, I think, throughout its life tried to stimulate industrial training in a number of ways. We have met extensively with individual employers, with the heads of large employers throughout the province, encouraging them to adopt the notion of self-sufficiency in skills as a corporate policy. I think we have had some success in that respect.

Moreover, we have now worked with the Ministry of Colleges and Universities to provide some provincial funding to complement federal funding, to assist employers in mounting on-the-job training programs even during times of layoffs, utilizing some supplementary funds that the government has made available.

The most important initiative we have taken, however, is first, to do research into the area and then to produce the paper which was made public a couple of months ago, outlining the various policy alternatives available to the government and the directions we think the government ought to take.

We suggested that in light of the current recession we should look to the enhanced wage subsidies now being made available by the federal government through its national training program, as well as the provincial government, to induce employers to come on stream as the recovery occurs, and we anticipate that will occur. We are hopeful, and I think there are hopeful signs, that a significant new training activity will be launched.

We also indicated that it was necessary for the province to work with the federal government to do a comprehensive monitoring of the situation and, in the event employers do not respond on a voluntary basis to the challenge that is now put before them and to the assistance that government is making available to them, other kinds of government policies--co-ordinated federal-provincial policies--would have to be adopted.

Mr. Epp: You keep mentioning the federal government. Some of the assistance the federal government is giving you is through its immigration policies. I get calls from time to time from people who want to come over to Canada and want to emigrate to Canada from Germany and other countries. The federal government says, "If you want to take jobs over here, we have to advertise those jobs locally first to make sure that those jobs are not met locally."

10:40 a.m.

I am not opposed to these people coming over. I am not opposed to immigration and so forth, but what happens is they have to advertise locally, as you know. If those particular requirements are not met by the local labour force, then people can come over from other countries to fill those vacancies. If the Ontario government were to develop skills in our labour force so that our labour force were to have those skills, then there would not be any need for these people to come over. That is why I think that the government and the planning are falling short; they are not seeming to anticipate what is going to be required so that the skills can be developed in Canada. Our people go on unemployment insurance and new people are coming over.

Dr. Wolfson: I guess, Mr. Epp, the point I was trying to make is that government cannot solve this problem on its own. Certainly, government can make a large contribution in terms of providing the institutional training and resources that are required and wage subsidies to employers, but there is a very essential ingredient of on-the-job training that is mounted by employers themselves. That is not something that government can really undertake. What we have to do is convince, cajole and induce the private sector to mount those kinds of on-the-job training programs so that they will be meeting their skill requirements from internal sources rather than relying on immigration.

Mr. Epp: I hope it improves in the next few years.

Mr. Watson: One of the policies that is currently being discussed, and I would like to know whether your commission has discussed it, is the matter of Canadian content in cars and the potential for jobs that has in Ontario. Has that been a matter that has been discussed by your commission and have you taken any position on it.?

Dr. Wolfson: It has not been discussed by the commission at all, Mr. Watson.

Mr. Watson: Do you not think that type of subject would be something that your commission could discuss because of the potential that kind of program would have for jobs in Ontario?

Dr. Wolfson: I would suggest that our mandate is pretty broad without incorporating all the different dimensions of industrial and trade policy, but certainly the developments within the auto sector are of concern to us and we do have work ongoing in that area. Rather than making recommendations on content requirements, however, we are trying to figure out what the skill requirements of the industry will be both in a context that does not have those content requirements and if the government policy is changed to impose those contents, we want to be in a position to anticipate what kinds of new skill requirements that will imply for the industry.

The focus of our work, Mr. Watson, would be on looking at the implications of those kinds of policies for manpower requirements rather than on the inherent soundness of the policies themselves.

Mr. Watson: But if we do not have that kind of policy, then we do not have the jobs and there is no use for you to prepare people for jobs that do not exist.

Dr. Wolfson: I am in total agreement that Canadian content policies do have implications for employment in the industry as do other aspects of government policy; it is not the only determinant of employment within the industry. The direct answer to your question is that we have not at this point directly addressed ourselves to those policies and their soundness.

Mr. Watson: I would like to pursue the matter of

training and perhaps zero in on the apprenticeship program. What is your connection with the apprenticeship program? I realize it is administered through the Ministry of Colleges and Universities, but what is your commission's discretion with that ministry in terms of the apprenticeship program?

Dr. Wolfson: There are a number of connections. First, the apprenticeship program is one of the main components of the industrial training system as a whole; so that although there are on-the-job training programs that do not involve apprentices, many do. The concern I was just talking about a moment ago with respect to industrial training as a whole would relate very much to apprenticeship training. We are very concerned when we see apprentices laid off during the economic downturn, and we have been working with the federal government to see whether we cannot come up with some imaginative approaches to keep those training programs in place even during times of recession.

The second way in which we relate to the apprenticeship program is, in so far as support for apprenticeships is part of the national training program, we work with the federal government. We negotiate a training plan with the federal government, of course on behalf of the Minister of Colleges and Universities (Miss Stephenson), to try to ensure adequate levels of support for apprentices both within the college system, because part of their training takes place within community colleges, and in terms of support for their on-the-job training activities.

The third area in which we relate is in terms of our research and our policy development with respect to training as a whole.

The apprenticeship system has certainly been a dominant force in the development of skilled manpower to the extent that has occurred domestically and has not relied on immigration. But in some respects it may not be as suitable to the development of the new kinds of skills associated with the new technology as it was with the traditional high-level industrial skills; so we are doing a review of the training system and modes of training to see whether new policies and new programs need to be developed that would perhaps introduce more modular approaches to training rather than relying on that fixed four-year program that has been the dominant pattern in the past.

Mr. Watson: What about the voluntary versus compulsory argument with regard to industries providing training? You referred to it here in your remarks that you had encouraged companies; the old argument that the big companies do not do their fair share of training and the little fellows do the training and then as soon as they get trained the big guys hire them. What type of thinking has your commission gone into in terms of ways of encouragement, be they voluntary or otherwise?

Dr. Wolfson: The approach we have taken thus far is to say that if we can get the private sector to respond to this challenge voluntarily, that would be the best approach to take. For one thing, any compulsory training runs the risk of compelling people who are poor trainers to train. Not all companies are

equally well suited to undertake training, and a global heavy-handed approach might be counterproductive in some respects. In addition, it would certainly impose costs now, bureaucratic and administrative costs, at a time when neither government nor the private sector can easily bear those additional costs; so we would like to see the private sector responding on its own to this training need.

What we have done is to participate with the federal government, both urging it to enhance the wage subsidies to companies that undertake training, and now, particularly in the most recent budget initiative, supplementing the federal subsidy to really make training very attractive to employers.

The government is really willing to bear a very sizeable part of training costs. It is willing to provide the curriculum development and training program through the Ministry of Colleges and Universities, and it is willing to pay for the wages of trainees to a very significant degree. So our approach is to come forward with that enhanced approach and challenge industry to respond and, as the economy recovers, we expect industry to take up that challenge.

Mr. Watson: It is very much a carrot rather than a stick approach?

Dr. Wolfson: Yes, it is, with the proviso that the Premier (Mr. Davis) and the current Minister of Labour (Mr. Ramsay) and his predecessor made it clear that government cannot wait forever for the private sector to respond. We understand that during this most difficult period of the last couple of years, the deepest recession since the 1930s, it has not been an easy time for industry to mount new activities, training or any other kinds of activities, but as the recovery takes hold we expect them to respond.

10:50 a.m.

Mr. Watson: What type of level of response do you think in terms of? In other words, do you look at an individual company and suggest, "In the next five years you are going to have so many tool and die makers who are expected to reach normal retirement; therefore, we want you to train that many," or do you simply say, "You have a certain number of people on staff; therefore, you should have a training program for a percentage of that staff"? Can you give me some idea as to the kind of formula, if I can use that word, that you are encouraging companies to undertake?

Dr. Wolfson: We do not have a pat formula but when we did our research on large employers, we could distinguish between those that are good trainers and those that are poor trainers in terms of, for example, the ratio of journeymen to apprentices--within the company, are there a large number of journeymen but very few people being trained to replace them?--and in terms of the proportion of new skilled labour that the company hires that comes from the training program within the company rather than from outside, either from other companies--the large firms taking from small firms--or through immigration. Those are the two

benchmarks we have used to try to distinguish successful trainers from those who are not meeting their responsibilities.

It is important, though, to say--

Mr. Watson: Pardon me for interrupting. Is your success measured only in numbers or is there any quality?

Dr. Wolfson: It is only in numbers. We don't really have the ability to get behind the numbers to see the quality of the training.

Mr. Watson: So it doesn't get away from this problem of people who would be poor trainers which you mentioned initially.

Dr. Wolfson: No. Although there is another aspect to being a poor trainer, and that is not having enough journeymen to supervise trainees appropriately; so you can get a bit of that problem through numbers. But, basically, the answer is that we don't have the ability to focus on quality.

The general approach, however, is that the government does not have as good a notion of what a company needs to train for as the company itself has. So we expect companies to take a look at their own labour force, the age distribution and the skill mix within it, their own corporate plans and notions of what kind of skills will be required, and then to train accordingly so that they don't have to rely on the external labour market or on immigration to provide those skills. We call that human resource planning, and the commission has done a lot of work to develop manuals and procedures to assist companies in doing human resource planning activities within their own firms.

Mr. Watson: Thank you.

Mr. Breagh: There are a couple of items I would like to go into in some depth. The first thing that should be said is that many of us are coming around to the point of view that something like this has been the advantage that other nations have exploited to put North America--the auto industry in Canada and several other sectors--at a real disadvantage. One of the problems I have is that we seem to be allocating resources in this commission resources--you have the credentials; you have access to the shakers and movers; you have money, expertise--but we seem to be still misfiring. That is my problem. I want to try to do a couple of specifics and then move into other areas.

We recently kissed off \$27 million in skills training programs, by and large federal money. We did so in the middle of a recessionary period, when we had gone to great expense to marshal our expertise and identify that that is where the problem lies, particularly in skills training programs. It is not as if we weren't prepared for it; we knew it was coming.

When we see the federal government finally respond in some way to match that need, to generate two programs, a general industrial training program and a critical trade skills training program, how is it then that we can't find ways to exploit that?

How is it that we can't take a commission like yours with its expertise and utilize the funds that have been made available? Many of us, like myself, would argue that not enough money has been allocated by either the province of Ontario or the federal government of Canada to rectify this problem. But when they do allocate funds we are unable to utilize it. How does that happen?

Dr. Wolfson: The money you refer to was part of the allocation within the national training program, the federal program, to support on-the-job training. There are two parts to the national training program. There is support for institutional training through the purchase of places within community colleges; that is the larger part of the total training system. Then there is the industrial training component, which provides wage subsidies to employers who will conduct on-the-job training.

I can assure you that every nickel of support for institutional training was expended. The entire budget that was made available by the federal government to the province was utilized to mount programs within the community colleges. Indeed, some supplementary funds were sought, made available and expended in terms of the institutional training system.

However, on the industrial training system, what is required there is for employers to mount training programs. The province has no active involvement in that decision. The province provides support to those employers. It will develop curricula and courses for them and provide training assistance and evaluation for them. But those training programs are negotiated between employers and the federal government.

During the recession, as you well know, the people who got laid off first in organized companies were the ones with least seniority; they were likely to be trainees. We found the plans that individual employers had made to undertake training programs were very much compromised by the layoff situations they faced. Therefore, the very much increased budget we had sought from the federal government to be devoted to industrial training simply could not be expended by virtue of the inability of individual employers to take on those trainees while they had large numbers on layoff.

Mr. Breaugh: That kind of gets to the crux of the problem. The concept of a manpower commission with access to the ministries you have access to, in my view is to try to exploit or utilize all sectors of the economy. In your opening remarks today, you stressed at some length that you wanted to do things to make it happen in the private sector. On several occasions we have heard various ministers say that the recovery will not come about by government spending money in government institutions, that we rely on the private sector to lead the way in this recovery.

By everything I read and hear, the expectation was that this is not going to happen in the community colleges, that this won't happen in the government; this will happen in the private sector. I assumed, I guess wrongly, that your connections in the private sector were there, that your anticipation of a recovery led by the private sector was based on information you had gathered from the private sector.

What surprises me is to hear now that when a government program was set up, the failure was in the private sector. By what I heard, the focus of this government and that of the manpower commission and of the federal government was the private sector; people were paying attention there. It surprises me to learn that the failure of this program, the loss of this \$27 million, was not in the community colleges but was out in this Holy Grail of the private sector. If everybody was focusing on the private sector, if that is where you anticipated a recovery, how is it that this program failed in the private sector? I don't get it.

Dr. Wolfson: With respect, Mr. Breaugh, I think we are talking about two different periods. We are focusing on the private sector during the period of economic recovery. That is where we are oriented in terms of our job creation activities currently.

However, during the period of recession, we did not have great expectations that the private sector would be able to respond to this on-the-job training challenge that we had put before them. I think it is fair to say that nobody anticipated either the depth or the duration of the recession; so that this \$27 million which was unexpended was greater than we had expected. It is very much a regrettable waste of resources.

We urged the federal government to transfer some of the money that had been committed to on-the-job training--it was clear that it was not being taken up--to the support of institutional programs. They did that to some degree, and we were able to mount more institutional training than we had anticipated.

But I think the longer-term answer to the problem rests on more flexible arrangements within the private sector to accommodate ongoing and even enhanced training during economic downturns. It requires some flexibility in collective agreements, to perhaps waive seniority provisions and allow apprentices to be retained, even at the expense of laying off more senior members of the work force so we can ensure that the training activity does not get aborted and thrust aside to the kind of extent that we have now seen over the last 18 months.

Mr. Breaugh: Perhaps it is my expectations that are wrong here. I would not have been shocked, for example, if at the end of this exercise somebody said, "Well, there was \$500,000, or \$3 million, or \$4 million that just did not quite fit." But it seems to me that \$27 million is rather beyond the pale.

The other thing that surprised me somewhat is that apparently in this exercise you missed about 12,000 fewer workers in community colleges--we see the institutional care--than you had expected; so the numbers did not jibe. Only about half of the expected 8,800 people in the critical trade skills training program showed up.

But what disturbs me somewhat is that perhaps I had given too much credibility to credentials and access to power, resources and all that stuff. It seems to me that in the analysis of the program of what might be stimulated and what positive effects

might come about, our numbers were substantially wrong. I am really questioning the state of the art. It seems rather outrageous to me that we had misjudged by 12,000 people and that half of the other program had been misjudged. How can we be so wrong in trying to anticipate who might take advantage of these programs? Could we not find them?

Dr. Wolfson: Let me first start by saying that the state of the art is, of course, imperfect, but if we are to judge the general ability to forecast by the activities of the past two years, everybody in that business had better pack up. This has been a very unusual period. I do not think that at this point we ought to abandon the attempt to forecast, plan and organize our affairs because we have been unable to accurately anticipate events over the past two years.

To address the particular issue of those numbers that you raise, however, again I should point out that the critical trade skills training program is very much dominated by apprenticeship training and apprenticeship training in those high-level industrial skills: millwrights, machinists, electricians, etc.

We did overestimate the ability to mount those programs because we underestimated the extent to which those apprenticeship programs would be closed down within industry, the extent to which apprentices simply would be laid off by industry. When the apprentices are laid off by individual private employers, then the numbers of people who are available to participate in those training programs within the colleges, since they represent a component of the apprenticeship training program, are commensurately reduced.

We got that wrong. We did not anticipate the depth of the recession and its impact on the number of trainees who would be laid off.

Mr. Breaugh: What you said is a perfectly logical and rational explanation for something like that, but I cannot get over the fact that there are 12,000 people out there who could have had the opportunity to do retraining at community colleges and it misfired. To say that we missed a couple of people in Oshawa, okay; so what? We are not successful at implementing this kind of thing in one part of the province because we could not get it into a particular community college. But to acknowledge that we missed 12,000 people who could have had an opportunity to take advantage during a recessionary period of institutions that are expensive, with training that would have helped us along the way towards a recovery, is to be rather pessimistic about our ability to do anything about it. It is the numbers that frighten me.

Dr. Wolfson: They frighten me too, Mr. Breaugh. I would hope that we would do better in the next recession. I would hope that--

Mr. Breaugh: You are not predicting--

Dr. Wolfson: I am not predicting, no. But I would hope that in the next economic downturn we would have more flexible

arrangements for taking those people who cannot be trained within work places because they are laid off and moving them more directly into the institutional system where we can control the level of activity more readily to have simulated apprenticeship training within the community colleges, or to take laid-off, idle plants and convert them to training sites. We are working on that now. We are not going to wait for the next recession to see whether we can find ways of smoothing over the training cycle and making it not as vulnerable to the peaks and valleys of economic activity.

Mr. Breaugh: In your analysis of this particular exercise, what did screw up here? Simply the state of the art; we could not anticipate how to design these programs; we did not know of the impact of the recession on the private sector? Or did some dumb bureaucrat design a program that could not work?

Dr. Wolfson: I would hate to dismiss any of those options, but I think the key element there was the inability to anticipate the depth and the duration of the recession.

Mr. Breaugh: There is one other area that I wanted to attempt to work off a specific. Yesterday, we had the Ontario Status of Women Council before us. They were drooling over your resources, your budget, how much people got paid and all of the mechanics of an agency like yours.

We discussed at some length the work you had done in preparing a position paper on women and employment, a position paper that has not yet been made public. I do have a draft of it which arrived through magical sources, as always. In reading the draft of this particular position paper, it becomes apparent after a while why it might not be public yet. But let me ask the obvious question first. Why is this position paper not public? The one I have is dated September 1982.

Dr. Wolfson: I am not sure exactly which version you have, Mr. Breaugh, but let me tell you where the process is at. We have been working on this issue in the commission for some time, as you know. It has been a difficult issue to grapple with and get a handle on. It has involved a very extensive research effort.

We have now completed a background paper on employment of women in Ontario which reviews very extensively the employment experience of women, projections, labour force participation and their outlook in the future. It reviews the programs that have been put in place to assist them and identifies some of the issues relating to those.

That background paper, which is very thick, is now before the commissioners. It is going to be reviewed by them. It will get their final review over the next few weeks, and I expect it will be publicly released before the end of October.

The approach that the commission has taken is to publish background research material after it has been reviewed by the commissioners and to make it as widely available as possible. On the basis of that background research, we then develop policy

recommendations for cabinet. That material is not made public until cabinet has disposed of it and decided whether it wants to accept or reject those recommendations and the extent to which it wants to publicize that decision. What I can tell you is that the position paper has not been reviewed by cabinet and, therefore, is not in the public domain.

Since we began our work on the position paper, however, as you know, the government has created a minister with responsibility for women's issues and a directorate to deal with those issues. So our anticipation now is that the employment recommendations and the employment policies with respect to women will be addressed by that new minister. We will, of course, give whatever assistance we can to that minister, who sits as a member of the cabinet committee on manpower. But it will be the Minister responsible for Women's Issues (Mr. Welch) who will release the government policy on all women's issues, including the employment ones.

11:10 a.m.

Mr. Breagh: One of the things which perhaps is a fault of the structure of the commission is that a report of this kind has received, in the strange way that these reports do receive, kind of less than rave reviews in advance of being leaked or whatever. Yesterday the president of the Ontario Status of Women Council said that one of the reasons she was not terribly excited about it was that it did not seem to do very much, or words to that effect.

Mr. T. P. Reid: I think she said it was not awfully good.

Mr. Breagh: It was not awfully good. I am not sure how one makes the judgement that something is not awfully good from a document that is not yet public knowledge, except that in the wonderful way in which governments work there are various levels of being public.

The recommendations of this draft report are certainly not ones which one would find to be startling in nature. They talk about training and career counselling and they do document the fact that women still receive a good deal less money for doing the same kind of work as men. There does not appear to be a great deal of strategy here.

If one looked in September 1982, one would say "That is just the way things are. They do not tend to do a whole lot about it." If we look at it in September 1983, we now have a minister who can talk about women's issues and problems in the work place, but we do not see a great deal of change. One of the hangups in the system appears to be that an august group like yourselves goes off and prepares great reports about things which we do not get to see. If the cabinet decides that it wants to do something about it, then we may see it. They will choose what statistics they wish to use and what recommendations they want.

Would it not be a better process if a group like your commission was a little more open in the preparation of this kind

of material and had a little bit of autonomy or at least functioned as an equal partner? One of the concerns I have with the structure of your commission is that it can be a very internalized commission to be used by the government for its purposes and may not serve the purposes of the public at large.

If I may expand just a bit, I see one of your strengths as being the makeup of the commission. There you have the potential to put together people from the private sector, the work force, the academic world and government, to put all these things together and get them to work on a major problem. But that is not going to function very well if at the end of the process, after you have prepared this draft, somebody in the cabinet says, "We do not want to see that yet" or "We do not want to do anything about it" or "We certainly do not want the public to see a document like that."

In some ways, though the recommendations are not too spectacular, it does reinforce what many people have been saying about women in the work place. There is still a hell of a lot of discrimination involved there and a lot of work that has to be done. There are major areas where it is going to take a massive effort on the part of the government just to even things up. Is that not a fault of the commission?

Dr. Wolfson: The deputy may want to comment on this, but let me just first make two remarks.

I would hope that in terms of identifying the nature of the problem and the responses that have been made to date our background document will suffice. That will be seen when it emerges, and you might find fault with it, but I do hope that will address many of the questions you are now raising.

With respect to the notion, however, that the commission gets excessively internalized within the government process, I think when you take a look at the actual membership of the commission and you think about its membership, even from the labour movement, for example, with Cliff Pilkey, Ted Roscoe and Ken Rose, it is hard to imagine those people being internalized excessively within the government process. I must say that is equally true on the management side as well.

I think that the composition of the commission lends itself to a certain independence of thought, irrespective of the publicity of its recommendations.

Mr. Armstrong: I might just add a bit to that. The question you are raising has very interesting political science ramifications. I have worked with a number of advisory committees. Take, for example--I have not worked for this body--the Ontario Economic Council. It is a body that issues reports from time to time that do not appear to have anything much to do with government policy.

On the other hand, take another body like the Construction Industry Advisory Board, where people from trade unions and from that particular industry are prepared to work with government

with a view to preserving some anonymity--everybody knows who they are--in terms of the policy advice but recognizing that a degree of compromise is necessary to move forward to some degree and to have an actual impact on public policy rather than simply to produce a zinger of a report that gets some play in the papers for a while and then gathers dust on the shelves. They would prefer to operate in a way in which they may not achieve all of their total objectives but they do have an impact on public policy.

I guess I see the manpower commission more in the latter vein than I do in the former. If it is to have an impact on this disparate area--and there is hardly a ministry of government that does not have some aspect of manpower policy working for it--if we are to bring together the various policymakers in the ministries, if they are to bring their constituencies along with them and finally persuade the manpower committee, cabinet and ultimately the Premier and the full cabinet of the wisdom of moving forward--you would say too slowly, but none the less moving--I think that is more useful--

Mr. Breaugh: With glacial speech.

Mr. Armstrong: --than simply publishing a report and having some nice measures and whistles about it, if you want.

So I guess I cannot be any more enlightening, if that is at all enlightening, on that. This is the way some of the systems operate, and I have seen them operate more or less effectively.

Mr. Breaugh: No matter how you phrase it, somebody managed to sit on this little sweetheart for more than a year. It is still being hatched somewhere, and the problem has not gone away. That is the difficulty I have with it.

One of the basic problems in all of this is that a commission such as yours with all of its great potential has credibility problems, I think, when this kind of exercise occurs. I tend to agree with Ms. Barnes yesterday in reading through the report that there is nothing in the report that is going to upset the world tomorrow morning; none of those recommendations is particularly surprising or new. When one looks at what was being recommended there as legislative changes, there were not too many startlers there. It challenges your credibility in my mind and in the minds of a number of people when it is able to get sidetracked, sat on, not dealt with and not released for such a lengthy period of time. I look forward with great anticipation to the 1984 edition of the 1982 report. It ought to be a good one.

Let me move to a couple of other areas where I want to talk to you a little bit. I am constantly in discussions with my prospective people in the trade union movement trying to get at all of the changes that are happening in the work place and how quickly, and you are involved in this to a great extent in setting up certification programs and trying to move other ministries around so that they acknowledge that there are new skills that have to be learned, to lay out precisely what those skills are, what kind of training programs have to be in place. There is a new federal act. I am told that this has ground to a halt these days and that we are not getting new certification programs from other ministries. Is that true or accurate?

Dr. Wolfson: I think you are probably referring to regulation under the Apprenticeship and Tradesmen's Qualification Act. That act is administered by the Ministry of Colleges and Universities, so we have no direct involvement in that certification process. However, we are aware that this ministry has taken a pause in its certifying practice. Until it, with us, can get a handle on the extent to which the new skills that are now emerging, which I referred to, can suitably be accommodated within those traditional systems of apprenticeship, or the extent to which perhaps more flexible systems are required--modular training, training that allows trainees to move from one work place to another without losing ground--I think it is fair to say that until those kinds of issues are better understood and placed within the context of new technological developments, there has been a hesitation within the Ministry of Colleges and Universities to proliferate certifications to the same extent as was done historically.

11:20 a.m.

Mr. Breaugh: Is there any indication from Colleges and Universities as to how long a pause this hesitation is going to take?

Dr. Wolfson: I have not received that information from Mr. Hunter, who is the assistant deputy minister in charge of that program. He might be able to provide it to you directly.

Mr. Breaugh: So this pause is what some folks would call a dead stop?

Dr. Wolfson: I really do not know that, Mr. Breaugh. My latest intelligence of it was that Mr. Hunter had paused rather than stopped, but you might really want to inquire of him directly.

Mr. Breaugh: How does the guy with the lunch pail out there know the difference between a pause and a dead stop? He has just been on hold for a while.

Dr. Wolfson: I am not sure it impinges that directly on the fellow with the lunch pail right now. Obviously, though, it does have an effect on the extent to which job specifications can get formalized in collective agreements.

Mr. Breaugh: I have a couple of other more general questions. A number of people have spent a lot of effort in attempting to analyse the economy of Ontario on a sector-by-sector basis, and inherent in all of that is a great deal of what you were trying to do. Are we at the state where we can say that in the foreseeable future the economy of this province will be coherent enough that an agency like the manpower commission can really make a difference? We have just reviewed one program where somebody forgot about the private sector. Even though it is high profile, we forgot to figure out whether or not the private sector could actually make this program work. Are we on the verge of getting an economy that is sufficiently coherent and cohesive that we can become competitive in a world market?

Dr. Wolfson: I am not sure I understand your question fully, Mr. Breaugh, but I think there are two dimensions to it. One is, is the economy coherent enough to be competitive? As I understand the first question the first time you asked it, is the economy coherent enough for us to make a difference? Those may have different answers.

My personal view is that the short-term outlook, in any event, for the Ontario economy is really quite promising. The Ontario economy seems to be relatively robust in relation to those of the other provinces, for example. We did not do quite as badly during the recession, although our own individual experiences, I am sure, are full of very depressing stories, but in relation to the other provinces, Ontario did not decline as much during the recession. Nevertheless, we are recovering at a faster rate. I just took a look at the August employment numbers, and they are really very encouraging indeed. If you compare August 1983 with August 1982, there are 120,000 more people employed in Ontario this year than there were last and, of those, 116,000 are full-time jobs. So those kinds of indicators make one relatively optimistic.

The United States economy has been stronger than anticipated, and since we are very much linked to that economy, our merchandise trade balance has been very strong. I think there are some indications of cohesion, if you like, and of our ability to compete and do well in world markets, particularly vis-à-vis the United States, that are quite encouraging.

If I might, though, respond to the first part of your question--that is, is it cohesive enough as a system for us to understand it and make a difference--that is more troublesome. I do not think there has been a period in the last 20 years that has been more difficult for economic forecasters, and that is not just because the recession was so deep and so long. It is because the recession took place at the same time that we had some very substantive demographic changes within the labour market.

The participation rates of women escalated sharply in recent years. The share of total new entrants to the labour force that is coming out of young people is declining, so we have some very substantive shifts in the structure of our labour force that have occurred at the same time we have gone through a very deep cycle.

Finally, we are now encountering major structural changes relating to the emergency of the Third World as serious trading partners and trading competitors, and to the impact of new technology that causes fairly significant structural challenges to the economy. Those things are all happening simultaneously. They are conspiring to make it very difficult to get a handle on where we are going.

If we only had to deal with one of those, I would think the task would be difficult. Two becomes perhaps almost unmanageable and three is really very troublesome indeed. So I think the bottom line to that is that our ability to forecast using traditional techniques, mechanistic approaches, large computerized models, and to get it right consistently over the medium and long term, has got to be viewed cautiously.

It has to be tempered with some realization of those underlying trends that cannot adequately be taken into account in those models, particularly the ones relating to new technology, and our work has to be complemented by the kinds of hands-on field experience that I talked about in my opening remarks.

Mr. Breaugh: One of the things--

Mr. Chairman: Mr. Breaugh, may I ask your indulgence? Mr. Rotenberg is next on the list and must leave at 11:30 a.m. for another meeting. He promises two or three minutes. Might I let him in?

Mr. Breaugh: He lies. I know the man. Let him have it.

Mr. Rotenberg: Dr. Wolfson, I just want to make a comment on the training program. You have outlined your training program, which seems to be geared to large industry, high technology, apprentice programs, community colleges and so on, which is all very well.

I do not remember the number but the majority of employees and employers in this province are the small, little industries. They have not had the traditional skills. They do not have the journeymen, the apprentice programs and are not the new high technology ones. What we are looking at in my limited experience is that we have a lot of square holes out there and we are not turning out the squares pegs. Community colleges do not do the program.

Here is just one simple example of someone in my district who does specialty sewing for garment manufacturers. People who come out of community colleges may know how to run a sewing machine but they cannot do the special skills. He has five employees and he has orders backed up to here and he could handle five or six or seven more people. That is a very small amount in the thousands of jobs, but there may be hundreds of employers out there who just do not fit into any of the programs of the community colleges.

You have money you have not spent. Here is somebody out there who can only train the people in his own factory, his own way, for his own particular job and he just needs a few of them. How do they fit into your program? How does your program fit them? How do they get help to effect their own little apprentice program, which is not an official apprentice program, so that they can train three or four or five people and they can give that many jobs, (inaudible) many times. Where do those people fit in?

Dr. Wolfson: I think that is a very good point you raise, Mr. Rotenberg, and let me just comment on it briefly. It has been a matter of some concern to us that we do not have a good handle on that training activity. Our orientation, our research, has been focused on large employers, as you said, and it has been focused on the development of high-level industrial skills.

We are now moving to expand our research basis. We are going to be doing much more comprehensive work in trying to get a handle on the training activities that are taking place and need to take place on a wider spectrum, including small businesses.

The second point I should make is that those kinds of training activities are supported within the national training program. I mentioned the provision of wage subsidies within that program. That has two components. There is the critical trades skill-training program which is heavily oriented towards apprenticeship training and, therefore, large employers.

There is another stream of general industrial training that is not hooked on to those particular kinds of programs, and it also provides wage subsidies to employers, small ones as well as large, to undertake training activities even if they are not designated as critical trades or national occupations.

11:30 a.m.

In fact, that part of the training program has been sustained at a higher level than the critical trades program so that, although the entire budget was not expended for either share, we found the small employers who were engaging in the kind of training you are talking about were able to maintain their training activities at a higher proportion than the ones who were involved in the higher level apprenticeship training programs.

We have, however, urged the federal government to ensure that kind of activity is not only maintained but increased. There has been an interest in the federal government to shift training away from those traditional areas towards the critical trades.

Although I think we are sensitive to the need to do that in part, we think an overdramatic shift can yield the kinds of dislocations we were talking about earlier, as Mr. Breaugh pointed out, where you were simply unable to accommodate the numbers of trainees you had anticipated. I think that reflects to some extent this over-orientation in the short term that the federal government has adopted towards large employers with critical trades skill training programs and away from smaller traditional employers.

Mr. Rotenberg: That seems to be the problem, but like today, when these small employers do not fit into any categories, as in these square peg jobs, there is no course at George Brown or anywhere else because they have a particular kind of skill they need.

Can they go somewhere and just get a simple wage subsidy--sure, there would be a certain amount of supervision, but just have it on-the-job training in their own--you have to research it and there is a program you do not even know about, but they want to train the man.

Dr. Wolfson: Absolutely, there is generalized, on-the-job training subsidies for those people up to, I guess, 60 per cent of the wage.

Mr. Rotenberg: Okay, because that seems to me where there is a critical need. Thank you very much for allowing me in.

Mr. Breaugh: Members of the Legislature are strange birds in the sense that they get little peeks at how the world works from different perspectives. From time to time, because my region is dominated by one of the world's largest corporations, I get invited into their inner circles and get some small understanding of how they function.

I must say General Motors deals with any government of any stripe anywhere in the world where it can make a buck. It makes no difference to them whether there is a revolution on the street. As long as it does not stop the production line, things are okay by GM. It seems to me that is a pretty good definition of the corporate sector in general.

One of the things which impresses me immensely about that type of huge, worldwide conglomeration is its ability to analyse, to be aware of all of the different factors that are involved in its production facilities and to move. When I said before about our economy being not quite coherent, we are beginning to do some of the things which perhaps will make us coherent and cohesive.

We have a task force which, amazingly, has the heads of the major unions sitting down with the heads of major corporations and deciding what is necessary for the survival of something like the auto industry in Canada. We even got the Premier of Ontario in a daring move to endorse the thing. We have not been able to get the federal government to do very much more than say, "That is really a nice report."

In the corporate world their ability to bring information to a centralized location and to make a decision is really quite impressive and I cannot get over that. In my own region, again, we are beginning now to realize that you cannot train people in a community college for a job that does not exist. If the private sector, the little plants, are not involved in the formulation of those courses and utilizing the resources of a community college which they certainly do not have in their own plant, we are not going to go anywhere.

I guess the most dramatic example we have had recently is that General Motors was thinking of spending a few million or so to change over some of its production facilities in Oshawa, in fact, taking full-size automobiles out of there completely and talking about its hot, new mid-size prospect. But the moment that sales of the large vehicles turn around in Atlanta or the eastern seaboard in the States, and we produce those cars, the moment there is more money in making bigger cars, they change their minds on that. They have that ability to be coherent, cohesive, to act rationally and, most important, quickly. I am not convinced the government of Ontario and the manpower commission has that ability.

Are we able to forecast into the future that this is what we hope to be able to do, to produce parts for automobiles which we don't even know about yet, to train people to produce those parts? Are we able to see into the future and say: "Yes, some day we will be able to respond as the corporate sector responds. We will be able to identify the skills that are needed; we will be able to utilize community colleges; and we won't see any more the disposable worker," which has been the trend in my region, for

example, dominated by the auto industry when a company like Firestone decides, "We don't want to make tires in Whitby any more"? The worker is disposed of. The government can pick up the social costs for all of that.

The corporation is allowed to move away and from its point of view it is a cold decision but it is a calm, rational decision based on the analysis that the plant is no longer producing the kind of profit the company wants, so it just takes the plant out of the picture, the worker is disposed of, somebody else picks up that cost, and it moves the production facilities somewhere else in the world to make some more money.

Are we getting to the point where we can be coherent about our needs in training and cohesive in taking some action? The task force report on the auto industry is a rather good one and a major first step, but unless we are able to react in a logical, rational manner it is not much more than a happy occasion when labour and management sat down and talked about a common problem.

Dr. Wolfson: I don't know that we are going to be as good at that as General Motors.

Mr. Breaugh: Don't forget, they brought us the Firenza.

Dr. Wolfson: I was about to say they are not all success stories. The ability of large international corporations to plan and control events is certainly greater than individual governments, I suggest. Even then, we have a Massey-Ferguson or International Harvester for every General Motors, and more of the former than the latter.

Thinking more positively, yes, we are beginning to comprehend and become more cohesive in response. The mechanisms are now coming into place. We have a research base and an analytic capacity that is certainly the envy of other jurisdictions within Canada. Our manpower forecasting system is, frankly, much more developed than in any of the other provinces, even in the federal government. I made some qualifying noises about it a moment ago, but I think it is as good as they come, at least in Canada.

In addition, we have now a well co-ordinated system between the province and the federal government, and through the activities of the commission we have structured a mechanism for making sure the interests of the various sectors impinge on the training system as operated through the Ministry of Colleges and Universities in a way that allows us to respond in a cohesive fashion once we get a handle on the direction we need to go.

Having said that, there are always going to be loose ends in the sense that this system is not as nearly as planned or capable of being planned as General Motors, but we are now putting into place the mechanisms that can do a much better job than we have done in the past.

Mr. Breaugh: One final area I wanted to explore with you is this. A lot of analysis has been done about the Japanese model,

if I can use that excuse for a phrase, of how to organize, plan, co-ordinate and get the private and public sectors, labour and management all together to make it happen. There is a fair amount of mythology developed now that the Japanese have some wonderful thing they put in their water which makes this happen.

When you get some in-depth analysis of how their plants function, for example, it is not quite as sweet as it first appears. They do make good automobiles. In several sectors they have managed to get a virtual monopoly on the world market. We do have a lot to learn but it isn't quite as nifty as it was first touted.

11:40 a.m.

The problem from the other end troubles me somewhat. It is still true that for all the work you do as a manpower commission in projecting for needs in educational institutions and all of that, a company is still very free to use the old disposable worker syndrome and say, "We just want to shut it down," and the Ontario Manpower Commission has no say in that, no knowledge of that, can't possibly anticipate that decision and there is no obligation on the corporate sector to tell you about it or seek your advice. It is not really a matter of much interest to them unless it gets to the sizes in the auto industry where it would appear there is some potential for disaster in the entire industry.

Isn't one key component missing? That is, from the corporate world, the ledger has to be changed. I believe that in the corporate sector, particularly when dealing with a company that is not based in Ontario but that has priorities in the United States, Germany or France, they sit down with a ledger and decide: "One of the things we could do is shut down a plant in Ontario. We don't have to worry about laws as there are in other parts of the world. That is our exclusive decision. We don't have to pick up the social costs; we don't have to relocate, retrain and all this stuff. Governments do that in Canada."

Isn't it time the manpower commission took a look at that whole problem, that in the corporate world they have to be part of a local economy such as in Ontario? They have to have some obligations which change that ledger. There have to be some explanations offered. You at least have to be given the chance to try to relocate, retrain, crank up new industry. That seems to be the basic problem you face.

Unless some of those factors change, you are going to be picking shambles all over the place. You will pick up workers who have been knocked out of Firestone or SKF or any other of an unfortunate number of industries around Ontario and then try to plan ahead, but the disaster is going to occur first and foremost.

Isn't it an essential element that some kind of relationship has to be established so that the private sector talks to you and somehow feels accountable to everybody else in that private sector so that--I don't suppose we'll get to it in my lifetime--the interests of the ordinary human being who works in a plant, who gives a plant 30 or 40 years of his or her life, is seen as an

element that must be dealt with rather than as a no-cost item on a ledger?

Dr. Wolfson: You raise some very interesting points. It is worth noting that the manpower commission isn't the only vehicle through which government involves itself in the operations of the labour market, and I wonder whether your question isn't more appropriately addressed to the deputy minister in terms of the legislation and other kinds of activities that relate to plant closures.

Mr. Armstrong: That sounds to me like passing the buck.

Mr. Breaugh: It demands an answer. What can you say?

Mr. Armstrong: They are huge questions. I have just returned from a very short holiday, and I commend to you, if you haven't already read it, Reich's *The Next American Frontier*. As you were asking the question and were commending the major employer in your community, it occurred to me that while no doubt that commendation is warranted, the Reich philosophy is that even as progressive a company as that is already outdated in its advance planning and that the Japanese counterpart has proceeded much further, not only historically and conventionally but also in terms of its strategic planning.

We all know about lifetime guaranteed employment that pertains in the biggest organizations. Also, they have apparently taken a longer view, if you can believe Reich, towards what the future offers. They are prepared to allow the large-scale process production to go to places like some of the less developed areas that occupy the higher-value niches in the economy and move towards the higher-technology things. The whole premise of the Reich book is that even our most progressive corporate citizens in North America have far too limited a time horizon.

Perhaps you may say in response: "Let's not be too futuristic. What happens Monday morning?" You talk about job guarantees. I do not want to be misunderstood about this, because I have a very high regard for the Canadian director of the United Auto Workers, but in the last round of negotiations the UAW-US sought to take at least some of the gains in terms of pilot projects in job security, and Doug Fraser and his associates south of the border thought that was a useful experiment. On the Canadian side we have taken, let us say, a more conventional approach, and the Canadian negotiators would prefer money in their pockets.

I think the challenge is not only to corporations that have to get in the ball park internationally and be a little less parochial about their planning, but also to trade unions. Our own assistance and our own analysis of the situation cannot be in isolation. Corporations start with their own plans. I suppose Alan's projections and strategies for meeting manpower needs have to take off from a corporate base, and I think to a very large extent your actions are derivative from corporate strategies.

To the extent that your question suggests the Ontario

Manpower Commission is not sufficiently familiar with those corporate strategies to assist in the process, I would again put that question back to Alan, but I think he has been assisted in that respect by some very high-power industrialists and very high-power trade unions. If you are not getting sufficient information from your colleagues to do that, then I urge you to pursue that.

Mr. Breaugh, I do not believe I have anything further to add except to say that to the extent to which your question suggests there should be greater intervention by the government in the actual planning and implementation of industrial strategy, that is something that goes well beyond the purview of these proceedings.

There is a great debate going on now among the presidential candidates in the United States. The so-called Atari Democrats are now saying it is just not good enough to have the big ??Atari ??Corporation of California deciding to relocate their production facilities to Taiwan and Singapore. These candidates say it is time we recognize that General Motors and others are not doing a good enough job in planning the industrial strategy of the United States. Whether or not there is a similar line of thought of any consequence in this jurisdiction, that is really where you people come in as politicians.

I think it would be overdramatizing the role of the manpower commission to say the manpower commission is going to make determinations of whether there should be some more central direction of industrial policy in Ontario. The manpower commission is given some raw material to work with; that raw material, it seems to me, is the strategy of the corporate community and the responses of the trade union community, and we work with what we have got or you work with what you have got from time to time.

Mr. Breaugh: If I could just conclude, one of my fears is that it is still seen as intervention--you used the word--when an agency of government is a participant in development, whether you are talking about a particular plant or sector, and that disturbs me somewhat.

What I find most bothersome is that, for example, in discussing how the Japanese make a better camera or a better automobile, we still refer to that as a Japanese car, even though we know now that many of the parts are not made in Japan. We are not even aware of who is doing what to us yet. Their development of an economy is done to a much tighter degree. I am not sure we would even be content to describe the Japanese economy as one where the government intervenes. The government does much more than that there. From all the sectors you can think of, there is a cohesive, coherent attempt to do something.

11:50 a.m.

We are beginning to be observers of what is going on in our economy. At least the manpower commission is maybe a bit more than just an observer, because it has certainly some access to the decision-makers and the policies of the government of Ontario so you can see some interaction there, but it is really rather a

primitive state of the art. I am somewhat concerned that we will be able to compete and that somehow in the whole North American attitude towards the development of an economy we are extremely primitive as compared to other parts of the world.

As I said at the beginning, I believe the manpower commission has some great potential which, if it is used properly and developed, can be of great use to the economy of this province. That really is why I was taken aback when I learned that we lost \$27 million and we could not utilize that money. I am somewhat disturbed by the notion that a report on something as important as women and employment can kind of be sat upon for the better part of the year.

I commend you for what you have started to do. My concern is that we look a little primitive compared to those with whom we will have to compete on a world market.

Mr. T. P. Reid: Having been around this place for some number of years and having gone through different inquisitions of this kind, I get the feeling, doctor, that you have a bit of a dog's breakfast to deal with. My friend on my geographical right here is trying to add more to the dog's plate, a sentiment I do not disagree with, I might say.

Sir, are you full-time?

Dr. Wolfson: I am.

Mr. T. P. Reid: You have no other interests outside of being here with us today as the chairman of the commission?

Dr. Wolfson: I am on a leave of absence from the faculty of the University of Toronto. There are a couple of research projects that I spend very little time on from time to time trying to finish up, but I am full-time as the commissioner.

Mr. T. P. Reid: Thank you.

Just to round off a couple of points that have been raised. In terms of the report on employment strategy for women, which has been dragging on since 1980 and which we were told last December and January by the minister would be available shortly, you have now indicated in your brief this morning and in answer to questions that it should be available to cabinet in October or so and then, presumably with cabinet's blessing or otherwise, it may or may not be made public. We do not seem to have got to the basis of why this report has been delayed for as long as it has. Can you tell us how many people were working on it, whether they were contract employees or otherwise and what it has cost to this date?

Dr. Wolfson: I cannot give you the precise costs, but I can tell you who has been working on it. There has been a succession of researchers involved in the project because, as you note, it has gone on for some time and it has involved both a member of our staff and a contract person from time to time. I cannot easily give you a computation of the value of those resources, but I will be happy to forward those to you by letter.

As I said, most of the work has been involved in the preparation of the background material, the research leading up to the policy recommendations and that material will be made public within the month.

Mr. T. P. Reid: Why has it taken so long, and I guess the concomitant question with that is, what priority did all this have in terms of the work that the commission has been doing? One can only assume that it did not have a high priority.

Dr. Wolfson: As you know, the commission is charged with looking at a very broad range of issues, and I think it is fair to say that we have been steadily pursuing this subject but that it has not been the number one item on our agenda.

Certainly since I have joined the commission, which is now two years, it is fair to say that the first year of our work was very much dominated by negotiating the redesign of our whole training system with the federal government, first leading up to enactment of the National Training Act and then negotiating the agreement under that act.

We have, if you like, a more general, overarching concern about the training system which would serve as the basis for launching women into higher positions within the work force, as well as training other members of the labour force. This past year has witnessed a shift in priority, to some extent, away from training issues towards job creation issues. We have been preoccupied with doing what we could to fashion short-term job creation programs and implement them. At the time that was the most pressing need.

Now, while all that has been going on, we have been crunching away at a very difficult and troublesome area. I think it is fair to say that we have devoted more research resources to this particular background paper than to any others. We wanted to make sure that we had a handle on all the available studies and literature, and it is a very wide range of material that we have reviewed, and were putting it all together in a way that would synthesize the material and make it clear what the issues were.

Mr. T. P. Reid: Despite that, Sally Barnes says that from her knowledge of it, it is not awfully good.

Dr. Wolfson: I have not discussed the matter with Sally Barnes; so I do not know the precise objection she has to it.

Mr. T. P. Reid: One gets a little sceptical after a while when one sits on the other side. Usually, when we do not see these documents, we are right in assuming that they are not very good or, alternatively, that the government does not want to put forward the policies that would flow from them.

I have some general questions and then I want some specifics. I appreciate your last answer because your brief is very good but it does not focus in on what your priorities are. What exactly are your priorities? You have told us about the National Training Act and that has occupied a lot of the time.

Now, with the recession, we were involved in short-term job creation and I think if I asked anybody to define that, hardly anybody would be able to do so. Everybody has a different definition of that and some of us would argue that short-term job creation is not the place to put our money. Having said that, what are now the priorities of the Ontario Manpower Commission for the next five years?

Dr. Wolfson: Five years may be a little too long a horizon for me to respond with great confidence.

Mr. T. P. Reid: Your contract is up before that?

Dr. Wolfson: Yes, much before that.

Let me first indicate that although, as I said, my first year was dominated by training and this last year by job creation and employment development issues, they will not disappear so that both of those occupy ongoing priority items for the commission. As I indicated in my brief, the new priority issue for us, and I think perhaps the most important issue for the next couple of years, if not five, is the employment impact of new technology.

That is an area where we are going to concentrate our new research effort, to try to get a handle on what the issues are that need to be addressed, what is the nature, magnitude and timing of those impacts that can be expected for the next intermediate future. That, I think, is the new priority item to accompany the training and employment development issues that remain as priorities for the commission.

Mr. T. P. Reid: One can never get away with discussing overall philosophy in these things, and we tend to do that too much on these committees, but I think we have arrived at an important fact that Mr. Breaugh and others touched upon; that is, everything I have read, particularly over this summer, is talking in the Japanese model, whether you like it or not. They are projecting to the year 2000. One of the things I will give the Ontario government credit for--and I think most of it has to be laid at the door of Darcy McKeough--is that in the early 1970s, when things were good, the government of Ontario was projecting into the future and had five-year, 10-year and even 20-year plans on occasion. Obviously, with the rate of change accelerating, that is difficult to do.

But you are telling us in effect that most of your operations are on a short-term basis. Is that because you are concerned that anything over the short term--two, three or maybe even five years maximum--you cannot project with any degree of accuracy? Or are you just caught up, as governments tend to be, unfortunately, with almost day-to-day crisis management; that this will be the problem either yesterday or tomorrow and we had better get a handle on this and then we will let the future take care of itself on an ad hoc basis?

Dr. Wolfson: I am sorry, Mr. Reid, if I was less than clear in my response. Our work is not short-term in its focus. Indeed, we have a forecasting system that looks over a five-year

period at the labour market outlook and is capable of looking even further. Our work on training is, by its nature, focusing on longer-term developments and certainly the work we will be doing in the area of employment and new technology will not have a short-term focus.

My response was directed to the question of what kinds of activities we are going to be involved in. I was just a little chastened by the experience of the past couple of years. If you had asked me two years ago whether we would be heavily involved in administering a job creation program, I would have thought that would not be likely, that we would continue to be preoccupied with training issues. But the priorities do change as the nature of the labour market changes and the demands put on the commission therefore change, and we try to be responsive. That does not mean we take a short-term view or focus in the substance of any of our work, but I would not want to go to the mat with you as to whether or not we would be involved in looking at the certification of new trades three or four years from now.

Mr. T. P. Reid: In 1980-81, the commission spent just over \$1 million. Last year, it spent \$1,770,000, an increase of about 64 per cent. That is a fairly radical jump, given that the figures themselves are small, for an overall increase in any government ministry. How many people do you now have working for you?

Dr. Wolfson: We now have 29 members on staff.

Mr. T. P. Reid: How many of those are on contract?

Dr. Wolfson: None of those.

Mr. T. P. Reid: They are all permanently employed?

Dr. Wolfson: That is right. If I might just comment for a moment about that increase: To some extent there was a consolidation of resources within the commission and a transfer of resources, particularly from the research branch of the Ministry of Labour. So this does not reflect new moneys to the public service.

Mr. T. P. Reid: One of your terms of reference is to develop and recommend to cabinet annually, through the Minister of Labour and, I gather now, through the cabinet committee, a framework for allocating funds to manpower activities. Have you made these annual submissions, or has cabinet told the commission what will be spent on manpower activities?

Dr. Wolfson: We have done that with respect to one area in particular, and that is youth employment programming. Since 1981, when the youth employment envelope was first established, the commission has made recommendations annually with respect to the allocation of funds to the various programs within that envelope.

Mr. T. P. Reid: Has the government agreed to these, or has it given you less funds, the same amount you asked for, or more funds?

Dr. Wolfson: There are two parts to the answer. The general thrust of the recommendations that the commission has made with respect to those allocations has been accepted by cabinet. In addition, however, the Treasurer from time to time as part of his budgetary process has made supplementary allocations to various of those programs to deal with the cyclical pressures within the economy.

Mr. T. P. Reid: That is very nice, but let me rephrase my question. Have you received what you have asked for?

Dr. Wolfson: Yes.

Mr. T. P. Reid: You have?

Dr. Wolfson: I think overall, yes. There have been one or two occasions where we asked for more than we got, but I think the record on having our recommendations accepted has been pretty good within the structures of government.

Mr. T. P. Reid: Are you satisfied that you have asked enough for youth employment? I do not know if you have seen this morning's Globe and Mail, and it was in the press yesterday, but the title of this is "Future of Jobless Youth is Bleak, Document Says." They are suggesting that at least until 1985--this is a study by the federal government and the Conference Board of Canada--we are going to have 19.4 per cent youth unemployment, which is one in five and which, apart from the economic problem, is going to cause some pretty severe social problems. Are you satisfied that through your commission enough is being done in this regard?

Dr. Wolfson: First, let me say that the youth employment area is a terribly complex one and one we have spent a good deal of time doing research on. I think our analysis of the prospects in Ontario differs significantly from the general tenor of that newspaper account, partly because the Ontario experience has been relatively better than the national experience; so we are looking at a different base for comparison.

Having said that, youth unemployment remains very high and is likely to remain high, and it is a matter of concern despite the fact that the youth population is shrinking. To some extent that demographic trend is going to take care of part of the problem, but not entirely.

It is worth noting, however, that the Ontario government is already making a very substantial effort in terms of youth employment programming. The province has committed more than \$100 million to hiring young people this fiscal year. Frankly, that is a good deal larger than the commitment of the federal government in Ontario despite the fact that they are the prime players in the employment creation game. I think it is worth keeping that in context, that we are already making a very substantial effort and a greater effort in providing job creation for youth than for any other component part of the labour market.

Mr. T. P. Reid: In your recent report on industrial

training for high-level skills, which you have indicated has been one of your priorities, the report was only about 20 double-spaced pages in length, and it did not contain any recommendations.

Part of your commission's mandate is to develop and recommend to cabinet manpower policies for the province. If the commission felt, as the report expresses, that new measures are needed because, to quote the report, "The advent of economic recovery alone may not result in a level of training beyond that (inadequate) level which existed before the recession," why did you not make some recommendations? Do you have some unpublished recommendations that you are going to put to the government as far as training needs go?

Dr. Wolfson: Mr. Reid, as that report said, it was the view of the commission that at this particular time--and at that time we were still in the midst of the recession and only beginning to come out--we should not embark on new legislative or other initiatives, that we should rely on the enhanced wage subsidies that are offered now by both the federal and provincial governments, and we should look to the private sector to respond.

The commission believes that if the private sector does respond, that is clearly the best approach to be taken. If the private sector does not respond during the recovery, that is the time we go back to cabinet with recommendations for alternative courses of action.

12:10 p.m.

Mr. T. P. Reid: This is a little off that particular topic, but we are dealing with the short-term jobs and the hope that obviously--I presume it is everybody's hope--the short-term jobs will become long-term jobs. My friend Mr. Rotenberg was asking about the other wage subsidy programs, and there are a plethora of them; in fact, I think there are too damned many. The employers I talk to are not aware of all the programs, and there are just too many on the market almost for anybody to differentiate. It is almost like buying a bar of soap. There are just so many brands it gets confusing.

It has been my experience in some cases that a lot of these short-term job creations are exactly that. They last from a minimum of six or eight weeks to maybe three or four months, sometimes six months. But then, as soon as the program, i.e., the wage subsidy component of it is over, the employers dismiss or fire or lay off, or whatever, the people. It seems to me that is causing as many problems as not having anything at all. My friend uses the word "disposable." That almost seems to be what it is.

Do you have any statistics on how many of these people who have been assisted by this program on an individual basis, the persons being employed, remain employed with that company or firm or find alternative employment as a result of this assistance?

Dr. Wolfson: Let me respond in two parts. I think the short-term program you are probably addressing most pointedly is

the Canada-Ontario employment development program, the COED program. That program is still in operation, so it is much too early to know whether significant long-term job creation will emerge from it, but I think there are two comments that can already be made.

First, the purpose of that program and its orientation was to provide some assistance to workers who not only had been laid off but had exhausted their unemployment insurance benefits. These people had no alternative source of income, so that kind of short-term buffer, if you like, involved in productive activity was the purpose, the goal of that program, and that is being achieved. We are creating 28,000 positions for people who desperately needed them. Those positions are not six weeks to three months; they are 12 weeks to 52 weeks in duration, up to a year. Almost all those people involved in those programs will, therefore, requalify for unemployment insurance benefits and not be left hanging at the end of the program.

What is also notable is that for the first time in a government-sponsored, short-term job creation program, the private sector has participated very significantly. Out of the \$220 million, over \$40 million has been expended to support private sector projects, and those sponsors on their own have contributed about twice that amount, so that the total level of job creation activity is about \$180 million within the private sector.

What we are finding now is there is a strong indication those projects are indeed leading to some permanent job creation; in fact, the most recent statistics we had indicate that for every four or five short-term jobs we create in those kinds of projects, we may get about three or four long-term jobs resulting.

Aside from COED, the only other experience I guess I would point to is the Ontario career action program which is mounted by the Ministry of Colleges and Universities for out-of-school youth and provides a stipend for up to 16 weeks to allow them to get entry into the work force. There we find that about 70 per cent of the participants in that program go on to permanent employment, either with that employer or some other employer, upon graduating from that program. I think those are quite encouraging numbers.

Mr. T. P. Reid: This may be an unfair question, but since you have been involved in it so heavily, it isn't really. I can't recall ever hearing so many complaints as I have about the COED program. I am told that from the federal point of view they are going to end this as soon as they decently can and that they will not be co-operating with Ontario or other provinces in similar job-creation programs partly because of the intransigence on the part of the province. I hear from the province of the intransigence of the federal government. Obviously, in terms of the working together of the federal-provincial system, it hasn't been what you would call an unqualified success.

Dr. Wolfson: I don't know where you get that information. I haven't been involved with government for a long period of time, but from talking to people who have and who have

been involved with this program, it has been a startling success in terms of the level of co-operation that has been achieved between the federal and provincial bureaucracies. The program was mounted very quickly. It was conceived very late last year and within a month we were taking applications. Although it was conceived as an 18-month program, we exhausted our budget within the first six months. If anything, from an administrative point of view, it vastly exceeded expectations and it has been a gratification, certainly to the officials involved and both ministers. The federal and provincial ministers with responsibilities for those programs would echo those sentiments.

You are correct that the federal government has chosen to disengage and operate its new job creation activities, whatever they may be, this fall under its own auspices, but I suggest the reasons for that have nothing to do with difficulties in administering the current program.

Mr. T. P. Reid: Are you recommending that this should continue?

Dr. Wolfson: Yes indeed. Ontario has taken that position. The Treasurer in his May budget indicated that Ontario would match any further federal contributions that were forthcoming to extend the COED program. The federal government has chosen not to make any further contribution.

Mr. T. P. Reid: Because of the problems with the administration and bureaucracy. I got some of this information from people in the manpower commission; so you can take that for what it is worth. There will be a purge tomorrow.

The six-year labour market outlook for Ontario publication was supposed to be presented annually. The first, and so far only one, was put out in November 1981. When will the next update be published? Why haven't we seen any since then?

Dr. Wolfson: The next update will be published by November 1983. It is currently in the final stages of preparation. It will be a five-year forecast covering the period 1984 through 1988. The reason why last year's version never was able to emerge is that we kept revising it to try to catch up with the latest figures and we never caught up. Every time we prepared the document it was out of date because the economic events were changing so very rapidly. We never felt confident about our projections in the middle of that recession to go out with them.

Mr. T. P. Reid: It sounds like the Conservative Party which has its annual meeting every two or three years, but we won't go into that.

How about these human resource impact assessments? Are they being prepared for every document you provide? I understand that any cabinet document is supposed to be accompanied by a human resource impact assessment. Do you do that as well?

Dr. Wolfson: We don't do that. That is a requirement of Management Board.

Mr. T. P. Reid: In the past 18 months--you touched on this--we have lost roughly 10 per cent of the jobs in manufacturing. We are told that those are not jobs that will reappear if the economy ballooned tomorrow. Can you give us your views or your forecast of what is going to happen in the next year or next few years in terms of this on the manufacturing sector?

12:20 p.m.

Dr. Wolfson: As I indicated, Mr. Reid, our forecast will be available in November. We are just putting the last run through the model. I am not in a position to give you our projections. What I indicated earlier is that the most recent data for Ontario indicates the short-term prospects are not as dismal as we had thought, even six months ago.

Mr. T. P. Reid: Of the 10 commissioners, there is only one female on the board, I understand.

Dr. Wolfson: That's correct.

Mr. T. P. Reid: Or one commissioner.

Dr. Wolfson: Presently.

Mr. T. P. Reid: Are there any natives?

Dr. Wolfson: No.

Mr. T. P. Reid: Any handicapped?

Dr. Wolfson: Only the chairman--

Mr. T. P. Reid: I was going--let that pass. This was set up by cabinet, presumably--

Dr. Wolfson: Those appointments are by order in council.

Mr. T. P. Reid: Yes. So you wouldn't make any recommendations that perhaps if you could find--

Dr. Wolfson: I think it is fair to say that as vacancies occur we would be very interested in having more representation from those communities on the commission.

Our preoccupation was to have senior representation to establish the credibility of the commission both in having input into the governmental process and vice versa.

Mr. T. P. Reid: I have a couple more specific questions on program evaluation. I touched on it earlier in asking you about the followup on the short-term jobs. Do you have in place some method of measuring how effective you are being in job creation or native employed or women employed? The gross figures don't mean a hell of a lot. For years the ministry of tourism has been giving us figures about how many people come to Ontario, but it never gives us figures on how much they spend. What kind of evaluation procedure do you have to tell you how well you are doing?

Dr. Wolfson: Thus far our main involvement in evaluation has been with respect to the youth employment programs. We have just completed a comprehensive evaluation of all the programs within the youth employment envelope. That has been very important information for us, and we are now moving forward with a review of the strategy we want to adopt for that envelope over the next five or 10 years.

There will also be an evaluation of the COED program. That is just now being put into place in anticipation of its completion.

Mr. T. P. Reid: Will that evaluation be made available publicly or to members of the Legislature?

Dr. Wolfson: I am not familiar with the details of the negotiations between our own officials and those of the federal government with respect to that evaluation because it will be a joint evaluation, but I see no reason why it ought not to be.

Mr. T. P. Reid: When might it be available?

Dr. Wolfson: It wouldn't be available for about 18 months because the program does not expire until June 1984.

Mr. T. P. Reid: Even though you have allocated all the money and--

Dr. Wolfson: We have allocated the money, but the actual projects continue to run. Some of them are coming on stream only now. If you wanted to get a good sense of how effective the program has been, particularly in creating long-term jobs, you would have to wait until the projects are completed.

Mr. T. P. Reid: What happens to the money allocated to project X and for whatever reasons project X didn't go ahead?

Dr. Wolfson: What has happened until now and will continue to happen until the end of this month is that those funds are reallocated to other projects that were judged as meritorious but for which there were insufficient funds. At some point in the program, those moneys, to the extent they exist at all, will revert to the treasuries of both the province and the federal government. We don't anticipate any great recoveries.

Mr. T. P. Reid: Mr. Chairman, I will wind up with a philosophical comment, and I come back, I guess, to swallowing my tail on this. I get the feeling there is not enough focus on what we are trying to do here. The word "structural" has been bandied around. I am not sure whether we are dealing on a macrosystem. Obviously, the federal government is taking a macroeconomic viewpoint of this. You indicated at one point that you were taking a much more microeconomic view, if I may put it in those broad terms. I do not know whether we are looking at this on a structural basis or on a province-wide economy. I am just not sure I get a feel for where we are going on this.

I would join with my friends here in saying that I do not think all of this makes a lot of sense unless we know where we are going as an economy, and I do not get the sense, with respect--and

I know it is not particularly your job--that the government itself knows where we are going as an economy, and whether or not we should have an industrial strategy still seems to be a moot question within the cabinet and among those cabinet ministers who have that responsibility.

I know this is not your problem, but it seems to me that without some kind of general guideline from the government as to where we are going or where we hope to be, what our industrial strategy is--and I know this is a word that is easy to bandy about--what we are going to do for some of these structural changes that we are experiencing and that most people agree generally we are going to have, how can you be anything but reactive to what is going on?

If you are just going to be reactive, that is not any different from the situation we had, with respect, before you came along. I do not know how you can meld your manpower policies when you do not have a framework within which to put them. I just get the sense of a bit of futility about the whole thing, that we are going to keep reacting to situations instead of planning forward to them. I understand completely that this is not your problem; it is the Legislature's and particularly the cabinet's.

I would end up with this question, on which I think Mr. Breaugh tried to elicit an answer and did not get it. Do you agree with this proposition of mine, and are you saying fact to the government, "Look, you have to give us some more cogent guidelines, more cohesiveness as to where you think the province is going to go, so that we can come up with policies that can at least partially anticipate; and if we have to react, as it seems under the present administration we always will, at least we can react more quickly than we are now"?

Dr. Wolfson: If I can just pick up your last point, I think that if one could achieve a situation where one's response is coherent, prompt and co-ordinated, that would be a contribution; so I think that is something the manpower commission can strive to achieve even in the absence of being more proactive, if you like.

This is a very troublesome question, which has vexed us as well, so much so that we did take the initiative about a year ago to form an interministerial working group with senior representation from the ministries of Industry and Trade, Treasury, Labour, Colleges and Universities, and Intergovernmental Affairs to develop a framework for manpower strategy on a collective basis and to put it in the context of general economic policy and the development of industrial strategy, to try to identify the very linkages you are now talking about. This process has been difficult but I think rewarding. We are about halfway through that process, and I hope we can conclude it early in the new year and bring that general framework to the manpower commissioners for their reflection and input.

Mr. Chairman: Thank you. I think this is an appropriate time to break until two o'clock. Are you completed, Mr. Reid?

Mr. T. P. Reid: For now, yes.

Mr. Chairman: You will want to come back on, or will Mr. Cassidy come back?

Mr. T. P. Reid: No, I am finished for now.

Mr. Chairman: Thank you. We are adjourned until two o'clock.

The committee recessed at 12:30 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO MANPOWER COMMISSION

TUESDAY, SEPTEMBER 13, 1983

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)

Breaugh, M. J. (Oshawa NDP)

Cassidy, M. (Ottawa Centre NDP)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Mancini, R. (Essex South L)

McLean, A. K. (Simcoe East PC)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Watson, A. N. (Chatham-Kent PC)

Substitution:

Reid, T. P. (Rainy River L-Lab.) for Mr. Mancini

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

From the Ministry of Labour:

Armstrong, T. E., Deputy Minister

Rose, J. B. S., Executive Co-ordinator, Ontario Manpower Commission

Wolfson, Dr. A., Chairman, Ontario Manpower Commission

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, September 13, 1983

The committee resumed at 2:07 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO MANPOWER COMMISSION
(continued)

Mr. Chairman: The meeting will come to order.

Mr. Breaugh: Take your glasses off when you say that.

Mr. Chairman: Sorry, it changes my perception. We will proceed with Mr. Cassidy.

Mr. Cassidy: I have some questions of Dr. Wolfson. I appreciate the commission being here. I want to go eventually to some of the structural questions which I think are technically things this committee should be looking at in addition to the policy questions because the relationship of agencies, boards and commissions or nongovernmental to the government or whatever is meant to be part of our concern.

I did have some questions earlier which relate to some of my concerns, and some of the things you had to raise as well. Two or three of them are brief but perhaps important symbolically.

First, on the name of the commission, it was suggested during the estimates last year by the minister that he was uncomfortable with the name. I wonder if you are uncomfortable with the name of the commission. Are proposals being made to change it to something which would perhaps suggest that 45 per cent of the work force have their concerns looked after by the commission?

Dr. Wolfson: I am uncomfortable if that name causes concern, and it does seem to cause concern among some parts of the community. I must say that personally I do not have trouble with parts of the language that have generic connotations, but if we could get around that problem I certainly would welcome that.

The difficulty, frankly, Mr. Cassidy, is we have had a problem getting any name recognition for the commission at all. Most people who find out I am associated with the Ontario Manpower Commission want to know what that is. They have never heard of it. They think it is some adjunct to the federal government's activities. It is only now that we have been marginally successful in getting some understanding of what the commission is about. I think this now represents a time that we can begin to entertain a change in name without losing that kind of name recognition.

We have been thinking about alternatives. We have been talking most recently to the women's directorate, looking for suggestions on alternative names that will be clear and not confusing with the federal government agency's name.

Mr. Cassidy: You hear me in terms of saying that probably is desirable and the sooner the better.

The second question is not totally frivolous. Yesterday we talked to Sally Barnes. As you may know, as president of the advisory council she is paid \$105 a day. I believe you are receiving \$315 a day. We asked her what she thought about becoming full-time and being paid at the same rate as the manpower commission and she was not opposed to that. How would you feel, for the sake of equality, about being paid at the same rate as the president of the Ontario Status of Women Council.

Dr. Wolfson: If I were a part-time chairman, as I believe Sally Barnes is, I think it would be entirely appropriate that I be paid at the same rate. Indeed, we have part-time commissioners and they are paid at the same rate you quoted. I think it is \$105 a day. At one time I was a part-time member and then vice-chairman of the Advisory Council on Occupational Health and Safety. At that time I was still associated with the University of Toronto and I was a full-time member of faculty. I did receive that honorarium. I am no longer active within the university. I am a full-time chairman. I do not think it is inappropriate to have a per diem reflect that.

Mr. Cassidy: The point I am making is that Sally has no other occupation. She is now, since retiring from the Premier's office, doing that as her sole preoccupation. Anyway, the point we are making is not directed to you. I entirely appreciate what you say. It is an interesting contrast in terms of the treatment of the women's agency.

Listening to some of the things you said, I felt one of the reasons for the lack of profile of the commission has been related to the fact you are this very strange fish and nobody hears an awful lot about you and nobody can quite understand what you do. I felt, both reading the research that John Eichmanis had done for us and listening to you that somehow--it is hard to put a handle on because one moment you are creating policy, one moment you are evaluating, one moment you are consulting, one moment you are publishing research and so on.

Therefore, it is like a chimera. Whatever one thinks you are doing, you are doing something else. When you think you are doing something else, you are doing what you thought it was in the first place. It suggests perhaps that the commission should be thinking through that problem and seeking to define itself more clearly in the minds of the public about what the roles are and what you are doing when you are practising each role.

I also felt the major activity in manpower and womanpower within the commission is that you are doing labour market research. Is there any ongoing access for the public, academics or strategic planners and corporations, people like that, to the research results of your market research group?

Dr. Wolfson: Yes. There are two forms in which that occurs. First, we publish studies from time to time. We are

publishing more of those as time goes on. That is one vehicle through which the field gets some understanding of our work, and we will be publishing those annual labour market forecasts on a regular basis, I hope.

The other way, though, is to have access directly to our manpower forecasting system. That has been available to the field for some time now, but it has been difficult to penetrate because it has not been computerized. Someone who really wanted to get inside our black box and see how those forecasts originate and how they are sensitive to different assumptions would have had to do some good deal of work with our people to accomplish that.

We are now in the midst of transferring that to a computerized system which should be much more accessible to outside users, even electronically accessible through computer hookups, and will provide access both to the data base we use and have collected from a variety of sources to do our forecast and to the model itself.

Mr. Cassidy: I think that is what I am asking now. Is the information which you are prepared to share right now, let us suppose, with business, government or whatever, based on the 1981-86 material or is there more updated material?

Dr. Wolfson: There is more updating and the outlook report that will be published within the next month or two will be 1984-88 and it will be based on much more recent data than that earlier version. In fact, it is going to take into account for the first time some of the new results available from the 1981 census that have only recently come on stream.

Mr. Cassidy: I think what I am asking is between November 1981 and now, a period of almost two years, you said that with the economy going through terrible disruptions you kept on having to redo your figures and so on, but each time you had a set of figures available that indicated what you thought was happening in 1982-87 or whatever your years were, would that have been available, for example, had our researchers in the NDP caucus or the people in Imperial Oil called up--

Dr. Wolfson: Absolutely.

Mr. Cassidy: They would have?

Dr. Wolfson: Absolutely.

Mr. Cassidy: I see. I think that is important. Again, I certainly have not been aware of that until now. Otherwise, if people were not aware of it, then here is a document which in a sense is worth \$1 million. I am not sure whether it justifies an expenditure of \$1 million, but nevertheless that is a \$1-million document in terms of the actual expenditure of a year's work by your market research group that went into it.

Dr. Wolfson: Mr. Cassidy, we have held a number of seminars for interested parties within the field, labour unions,

industry associations, academics, etc., updating them on the stage at which our work is at various points in time and making it clear that it was an open book, that the system was accessible to all users who wanted to come in and get involved with it sufficiently to understand how to penetrate. We have not gone out and done a very large-scale marketing exercise comparable, for example, to the federal government, but I think we have taken the opportunities of these seminars and other occasions, particularly in federal-provincial meetings, to provide that access and indicate our willingness to share the information.

Mr. Cassidy: Is your information broken down more than is in the 1981 document?

Dr. Wolfson: Yes, indeed. The information is fairly secure at the industry level, certainly sectors in industry and at broadly defined occupational groups. It is available in more discrete form. I do not know if you are familiar with the Canadian Classification and Dictionary of Occupations, CCDO codes, broken down very finely to seven digit levels and distinguishing between, for example, various kinds of draftspersons. Our analysis would proceed even down to that very discrete level, but most of the work would stop at the four digit CCDO level in terms of projecting trends in employment.

Mr. Cassidy: Will the use by people between November of 1981 when this was published and now indicate their substantial awareness in the various relevant communities that you have a resource which is useful to them?

Dr. Wolfson: I think it is fair to say that the major application of the system--and it has only been at a developmental stage until very recently--has been in terms of its relationship to plans and training decisions, so it is a system that we have relied on to try to identify critical trades for the purpose of designation under the National Training Act and to give some sense to community colleges about directions that we think are emergent--

Mr. Cassidy: So it is mainly for in-house use rather than for outsiders' use?

Dr. Wolfson: Within government and within federal-provincial discussions. There has not been much demand for access from the private sector.

Mr. Cassidy: The forecast done in 1981 must be--I do not know if you are embarrassed by them, but certainly I suppose lots of other people made the same mistakes.

Dr. Wolfson: Yes.

2:20 p.m.

Mr. Cassidy: I think they indicate that unemployment would fall from the 5.5 per cent range in the early 1980s to about 4.5 per cent or 4.8 per cent in 1985 or 1986. Would that we could achieve anything like that with what know now.

What do your projections now indicate for the period to 1987 or 1988 with respect to the overall rate of unemployment in Ontario?

Dr. Wolfson: As I think I mentioned this morning, we are only now running that model. We rely for those kinds of general projections primarily on a model that is mounted at the Institute for Policy Analysis, University of Toronto. It has recently been updated and we should have that available to us within a week or two in terms of those longer-range projections.

I know the projections for 1983 and 1984 are in the range of the high 10s, around 10.8 in Ontario.

Mr. Cassidy: In 1983-84?

Dr. Wolfson: In 1983-84. I have not seen the projections for 1985 and on yet.

Mr. Cassidy: Since we moved up into double-digit unemployment, has there been a time when, if we or other people had plugged into what you have, we could have seen some effort to project where it might lead us in the mid-1980s?

Dr. Wolfson: Certainly we were running the model, but one of the reasons we didn't publish the annual forecast, or the five-year forecast last year, is because of a certain lack of confidence in those results in the midst of that recession. The economic conditions were changing so dramatically that to forecast their particular impacts on four-digit occupations, if you like, for five years, seemed to us to be a very hazardous exercise.

They would have been available for anyone with the appropriate qualifications to use, but I would not have encouraged people to put a lot of stock in them.

Mr. Cassidy: There is a report out from the federal employment department suggesting that youth unemployment will be close to the 20 per cent range right through into the mid-1980s. Would that be substantially your projection as well?

Dr. Wolfson: No. Our projections are considerably lower for Ontario. That is based on a number of factors. Just before I explain that, personally I think it is worth looking behind even the federal numbers that are indicated there, because within the youth unemployment area one has to distinguish between students and nonstudents, between teenagers and those in their 20s.

If we take a look at the teenage unemployment situation, we find that the unemployment rates would fall in half if we only focused on those who are not students. Roughly half of all the unemployed teenagers in Ontario are students looking for part-time jobs. That does not mean it is not a hardship for those students to be unable to find part-time jobs, but it is a somewhat different kind of problem than for an unemployed person who is not in school and is looking for full-time employment.

We mix all those numbers up together in those labour force statistics because, when the federal government does its labour force survey and asks a student whether he is looking for a part-time job, if he says yes, he is counted as an unemployed member of the labour force. So that is a qualification I want to put on the general numbers.

Having said that, I think it is fair to say that the Ontario picture looks somewhat different and somewhat more optimistic than is the case in other provinces. That is related to a number of factors; not least of all is the fact that many of our young people, when they responded to their inability to find jobs when they were out of school and moved into school, continued to count themselves as members of the labour force and continued to look for part-time jobs. They will not then be new entrants into the labour market. They will not swell the ranks of the labour force, so the surge effect the federal government is referring to in projecting large increases in labour force participation by young people will not occur to the same degree in Ontario as it will in other provinces.

Mr. Cassidy: So you are talking of some very statistical blips in terms of definitions that may make the situation--

Dr. Wolfson: We are talking partly in terms of blips and partly in terms of the fact that the youth unemployment situation simply has had a different set of characteristics in Ontario than it has in other provinces.

Mr. Cassidy: This is the industrial training report which came out in July and which I have just seen since coming back. I was concerned about this because I think this is the closest of anything published to an actual piece of advice to the cabinet. In that case one could possibly say that at least this is a representative sample of advice to the cabinet.

If that is the case, when I look at your conclusions here, which after arguing strongly about the need for action and so on--and certainly some of your projections indicate that if there is any kind of bounce back after the recession, there will be a real shortage of high level industrial space, for example--you then conclude by saying: "In light of the current recession, any action which increased private sector costs would be inappropriate at this time. The province should inform the private sector of its intention to monitor all industrial training activities and, though a low responsive action by employers is expected, Ontario will review with the federal government other measures which may be required."

You have really hit them over the head with a bunch of limp spaghetti. It does not seem to me that couching a report in that way is likely to encourage a cabinet which has a free enterprise orientation to take what action may be necessary in terms of responding to a very critical problem of the needs for training and retraining in our economy.

In other words, if the manpower commission is so easily led off what needs to be done because of the economic climate--well, it seems to me you are the body which is there to provide leadership in your advisory role to the government and to the cabinet. If you are not providing it, it seems to me extremely unlikely it will come from other places in government, particularly since the responsibility for manpower was probably justifiably focused and concentrated in your commission.

Dr. Wolfson: I think, Mr. Cassidy, on this question of being led astray or not taking the leadership, we should remind ourselves of the composition of the commission. That document was unanimously endorsed by all the members of the commission. That includes Mr. Pilkey, Mr. Roscoe, Mr. Rose, as well as representatives of the business community and the educational sector.

It was our best judgement and it was a consensus among the commissioners that was the appropriate course of action to take when we did that analysis and wrote that report. That was in the middle of the deepest recession since the 1930s. It was not that we thought the government would be unwilling to entertain any other recommendations. Rather, we thought that was the appropriate course of action for the government to take, not to try in the midst of the recession to impose training requirements on the private sector, but rather to look to the recovery to be the period in which the private sector should be asked to respond and to indicate the government's commitment that it expected that response and would be prepared to act if the response was not forthcoming.

Mr. Cassidy: There are two aspects to it. One is you say: "Don't act now." The second thing is you say: "We are going to keep an eye on what you are doing." Mike and I have been around this place for some years and perhaps have grown a bit jaundiced at reports that come from the government that there is a very serious problem here and they are certainly going to monitor and keep an eye on it. The next time we look at it is when we raise it in the Legislature or it is raised by some outside group.

In other words, perhaps the public as a whole, and not just those of us who are close to provincial politics, have grown a bit jaundiced about the government saying: "Don't worry. We are keeping an eye on this and if we need to act we will."

2:30 p.m.

Dr. Wolfson: I do not know whether this will cure your jaundice, Mr. Cassidy, but I think it is worth mentioning that the Minister of Labour (Mr. Ramsay) did take the initiative at the last federal-provincial conference of ministers with labour market responsibilities to address this issue and, indeed, proposed to all his provincial colleagues and the federal government that a commitment to this joint activity, both in terms of monitoring developments in the field and considering alternative policies, be undertaken, and it received consensus from all the other provinces and the federal government. So this is not a matter that the government wants to let sleep until it is raised at the next occasion. It is under very active review.

Mr. Cassidy: Supposing that there was a certain consensus that if the finishing touches were being put on this back in the middle of winter, that there was some hesitation that full-flown action was required, what I would have liked to have seen at the very least was another page and a half on the report describing a strategic plan for how the increase in training would be integrated into the economy, a phased kind of program--you cannot do it all over night--so that, if nothing else, the planning could begin now, even if some employers were not in a position to actually begin to implement it until economic conditions began to revive.

Dr. Wolfson: I think that is a good point and one that certainly we will be addressing now. I do not want to apologize in any sense for that exercise. But one thing I would note for you is that it was rather narrowly defined in terms of the range of occupations that we focused on in our research effort. So it looked at high-level industrial skills and, indeed, even those within the metal cutting trades primarily.

One of the things that has concerned us is that we did not have as broad a range of information on on-the-job training in other occupations and in other areas. If we were going to come forward with any generalized policy that was more than a generalized wage subsidy, we really would need to enhance our information base on the nature and scope of industrial training outside of those areas we had already investigated. We are now undertaking that.

Mr. Cassidy: That may have some validity, but when I heard you say that earlier, I said to myself, "Hey, wait a minute." There is a danger that you go and learn more and more about this field. In the meantime, my 16-year-old comes into the labour force and someone else's 14-year-old comes into the labour force and goodness knows where we get to before you finally get around to coming up with a plan. It may be a superb plan by that time, but it is irrelevant to the people who got passed over in the process. There is a real danger about that.

One of my concerns is that the bulk of the apprenticeship programs in the province are still in the areas of construction, mining and automotive and certain trades such as hairdressing and so on. But in terms of the areas where we are constantly thinking about the need to upgrade skills--in construction, for example, there is a particular problem about adequate supply of skills--in the manufacturing skills and so on, it really is no better now than it was seven, or eight or 10 years ago.

Interjections.

Mr. Cassidy: Are you looking into--I think you are saying yes--new approaches to training? The module system appears to be mainly being used in those three areas I just mentioned, according to one of your reports here. That was a couple of years ago. Are you trying to find ways by which the training and skills that people do acquire can be defined as modules so that they can take a piece of paper around from place to place and gradually develop a perceived level of skills?

Dr. Wolfson: Yes.

Mr. Cassidy: Are you looking into such things as concepts of continuous learning and so on which certainly apply at managerial and professional levels today to learning on the job or related to the job? Are you looking at means of removing institutional barriers and therefore accelerating the acquisition of skills from training so that they do not have to take so damned long and therefore become more accessible to somebody who may be able to keep a job for two years as a trainee but where they will not take them on for four years because the job may not last that long?

Dr. Wolfson: The answer to the questions basically is yes, but I would not like to mislead you into thinking we are doing that on our own or that we are the prime actors in that review.

The apprenticeship system in particular but the whole area of skills development training is the mandate of the Ministry of Colleges and Universities, and they are doing a very active review of modular training and continuous training as modifications of the existing system. We are working with MCU in that review, but that is not something we do in isolation.

Mr. Cassidy: I fear that because of the nature of your relationship to government and the fact that you have not emerged to be seen as a particularly independent body, there are times when one would like to hear from you.

I will give an example, and it is the kind of thing you can hire a student out of the student in training in industrial relations program to research for you next summer. How many employers across the province are requiring grade 12 and grade 13 for floor sweepers or for other relatively routine types of jobs simply as a means of reducing the number of applications but as a consequence almost unwittingly denying access to jobs to many people who could perform them competently? Is this not an institutional obstacle to manpower mobility that ought to be identified by your commission?

Dr. Wolfson: Yes, indeed.

Mr. Cassidy: I do not hear you say that. You do not have an annual report, and I think that is a mistake. It seems to me that you could say some things like that, which are perhaps not appropriate for an entire research report, and that in your advisory role you could step outside what you say to cabinet and say some things publicly if you were to have an annual report separate from the very simple thing that goes into the annual report of the Ministry of Labour. Have you considered that?

Dr. Wolfson: We have been looking to the annual reporting of our labour market outlet as being the primary vehicle for us to indicate where we think trends in the labour market are going. Certainly in the past two years we have not given serious consideration to an annual report in addition to that document.

Mr. Cassidy: I have here, just in the area of training as well, the 1983 figures on apprenticeships for women; as you know, if anything they are worse than the 1981 figures. The figures here indicate that there are 40,000 men in various apprenticeships across the province and 1,000 women and two or three dozen women in the construction trades, the motive trades and the nonregulated trades. It is absurd, and all the talk about bringing women into nontraditional occupations has not been matched at all by action. I am sure there will be comments about it from the people around Bob Welch now, but it would be helpful if that were to be coming from the president of the manpower commission as well, particularly if you change your name.

Dr. Wolfson: Perhaps they will, indeed. I think we should remember that apprenticeship is really only part, and really quite a small part, of the overall training effort within the province. That is not to say we would not like to see greater participation by women even in the apprenticeable trades. That has been particularly hard to achieve, as you might guess, over the past 18 months, when apprentices have been laid off, particularly in the construction industry and in the motor vehicle industry.

Mr. Cassidy: With respect, there are actually more apprentices, according to the figures we have here, in 1983 than in 1981.

Dr. Wolfson: There are more apprenticeship positions in 1983, but there were not in 1982.

Mr. Cassidy: Okay. But there were fewer women. Perhaps you could sort of put some of that and do it publicly.

Let me talk a bit about your various roles. You are advisory, you are evaluative, you are consultative, you have administrative responsibilities and, from what I can see, in fact, there are tremendous conflicts there.

2:40 p.m.

I believe you said your evaluation of the Canada-Ontario employment development program will be made public, or at least you have no objection to it being made public. How do you properly evaluate a program that, for the sake of argument, was originally researched by the manpower commission, that you subsequently presented before cabinet in a specific proposal and that you subsequently implemented and/or co-ordinated within government? How would you evaluate it if cabinet came back and said, "We want you to do something that is quite different from what you have intended to do," basically rejected your advice but then told you to do what they told you to do? If you thought it was wrong in the first place, what the devil is the evaluation going to come up with? How do you handle those different roles?

Dr. Wolfson: Those kinds of difficulties have not arisen, Mr. Cassidy; so I think it would be speculative for me to comment.

Mr. T. P. Reid: They call the deputy minister.

Dr. Wolfson: That may be.

Mr. T. P. Reid: They call and he'll come running.

Dr. Wolfson: I think it is fair to say that the current program represents an anomaly in our general activities with respect to evaluation. We have been involved in the evaluation of programs delivered by other agencies and other ministries, so that kind of conflict of interest simply has not arisen. It could potentially arise with respect to the current program, but not by virtue of our having given advice about the design of a program that was rejected.

Mr. Cassidy: Are the evaluations you make of all the programs available to people in the field? Are they available publicly?

Dr. Wolfson: We have not got any evaluations that are publicly available now. As I say, we have just completed the evaluations of the programs within the youth envelope, and they are not yet publicly available.

Mr. Cassidy: You spoke to some extent about microtechnology. You are one of the more optimistic of the people who have commented on this field. I have to confess that on the basis of work I have done, I am perhaps more pessimistic, but I think my pessimism is matched by an awful lot of other people. In fact, if anything, there has been a lot more gloom about this, I am afraid to say, in the past year or so than before.

It is not the same as the 1960s. Right after 1964-65, people shut up; they stopped talking about the issue because it was not an issue. The fact is that we are now seeing sharp increases in productivity projections; the economy may recover, albeit fragilely. But the jobs are not coming back. We are seeing the increase in production as a result of increased productivity; and that, it seems to me, is far more than just the normal acceleration of productivity at the beginning of an upsurge in the economic cycle.

Is it basically that you are an optimist, or have you got some other evidence that would lead you to be more positive about this?

Dr. Wolfson: No, Mr. Cassidy. I think I was just trying to indicate that the amount of hard information in this area is not great and that prognostications of gloom and doom may be accurate but at this point they are very speculative. There are some other factors, some other trends at work here that could give rise to a more optimistic reading of the impact of new technology. I am not starry-eyed about these developments. I was just trying to indicate the necessity for us to keep an open mind until we have a much more secure information base.

With respect to your last point, namely, the current indications with respect to productivity and employment, I think it is fair to say that, in Ontario at least, the current indications with respect to employment in the immediate future in

regard to the recovery are not that dismal at all. As I said, four or five months ago we were projecting that the average unemployment rate for 1983 would be around 11.7 per cent; we now think it will be around 10.8 per cent. The seasonally adjusted unemployment rates in Ontario have plummeted since April. It was 11.7 per cent in April; it was 10.1 in August. That is a very significant improvement in employment, not just in productivity.

I was trying to, if you like, speckle the canvas a little with some pink--

Mr. Breaugh: Pink! Be very careful about that.

Interjections.

Dr. Wolfson: Some rosy-coloured pigment against what has been a pretty dreary background.

Mr. Cassidy: I think my next question is mixed in with the one that follows; the one that follows is the question of--

Mr. T. P. Reid: Go over that again.

Interjections.

Mr. Cassidy: The area I want to go to in a minute is the question of more effective collaboration between labour, management and government. The need there is to develop a climate of greater trust and of greater acceptance of labour by management and of management by labour in terms of the legitimate existence of both sides and the interests of both sides. That is something that has been much too absent in our province and elsewhere in this country, but at the work place level, as you know, very much the same kind of things apply.

The reason that half of the Japanese work force feels particularly secure and is particularly able to adapt to new technology and so on is a very strong predilection in that country for lifelong employment among the major firms. The social contract that is made is that in return for knowing they are going to have a job and be in a fairly defined career and salary track, or pay track in the case of blue-collar workers, their people are extremely adaptable and flexible in terms of what they do and the type of jobs they take on.

We do not have that tradition here at all. People can still be arbitrarily fired, if they are blue-collar worker virtually overnight.

When you spoke in your presentation here about starting to look into such issues as training, retraining, mobility and severance pay, it struck me again that you are going to do a long period of research and then come up with some proposals. We will be up to 1985 or 1986 by that time. If we are in power, we will be delighted to respond, but in the unfortunate event that we are not, the government has a propensity to move rather slowly as well. A very substantial amount of industrial displacement may take place under conditions which will not be conditions where

people have a sense of trust or security. Therefore, technological change over the next four or five years will be more likely to be accompanied by dissension, tension and all those kinds of things.

Should not your commission be moving very quickly to look at some measures--obviously they cannot solve all the problems--that at least could help to increase people's confidence in being able to jointly face the challenge of technological change rather than it being something that is just seen by workers as being devastating and to be imposed by managers?

Dr. Wolfson: Mr. Cassidy, I share your concern that we do not have the tradition of consensual structures within the work place or at higher levels that have developed in some other jurisdictions in western Europe and in Japan, for example. Indeed, it seems to me that the formation of the manpower commission and its composition are a statement of that concern by the government as well.

I would argue, however, that in the absence of that tradition it is important that at the senior level, at the level we are operating within the commission, we move forward those consensual structures rather than try to impose them in an artificial way at the level of the work place. It requires the kind of leadership that is in evidence in the consensual structures with respect to the commission and the Advisory Council on Occupation Health and Safety, and it is to be hoped that the quality of work in that committee will filter down and provide the atmosphere at the work site that allows those kinds of new technological developments to occur in a co-operative and collaborative atmosphere.

2:50 p.m.

Mr. Cassidy: I think what I would look for from your commission might be something more immediate and specific, which perhaps relates to the people at the plants in Oshawa whose jobs are being threatened or the people at Canadian General Electric; such things, for example, as to talk about interim steps that are desirable with respect to severance pay now as a means to recognize the stake that workers have in their job, rather than them being treated as industrial cannon fodder. That is an area where leadership could come from the manpower commission, even if you say, "While our research is incomplete and while our situation is in such flux, we recognize that we do not yet have all the answers."

It may be that five years from now we will find we are back to seven per cent unemployment and back on the tracks you predicted a year and a half ago, that some of the sense of crisis will be past. None the less, there is such a sense of crisis there that it seems to me that actions are needed by government to give reassurance, and enough reassurance, that the various actors involved can get on and do the job rather than being scared to hell and incapable of moving.

Dr. Wolfson: I would hope it would not take us five years to make recommendations of concrete actions. I guess what I

can indicate to you is that we have not even done the basic research I think is required to identify the nature of the problem accurately to be able to move briskly to a legislative solution immediately. We need more work than we currently have done before we can come up with those kinds of recommendations.

Mr. Cassidy: The last point--I was promised another question--is in the whole area of labour-management co-operation and collaboration. I am convinced that one of the fundamental societal political problems we have in the area in which you are working is that there is such a strong view among employers in the province and in the country rejecting the legitimacy of workers having representation and their own trade union.

Unfortunately, if it starts from one side, that helps to generate something of a confrontational attitude on the other side. If your very existence is constantly threatened, a trade union has to fight and fight hard. I am sure that not all of it comes from the management side, but none the less a lot of the leadership in terms of putting us on to a better basis has to come from management and has to come from government.

In this province, by North American standards, our labour legislation is actually not that bad, but that is by North American standards. I am not sure whether that is the best standard to judge by. None the less, it is a very grudging type of acceptance rather than an acceptance that will lead to co-operation and identification of joint interest.

Has your commission reflected on this question, particularly since it is a tripartite type of group? Have you thought of maybe making some recommendations or taking some concrete initiatives in this particular area?

Dr. Wolfson: The focus of the commissioners' concern has not been on labour legislation, if you like, on the traditional forums in which the government has legislated the functioning of the labour market.

I think it is fair to say that one of the reasons why we have been successful in the commission in drawing on senior participation from both labour and management is that there is an atmosphere within the province that is not duplicated in many other jurisdictions in North America where there is a sense of commitment to this kind of consensual structure. It is something that is not nearly so evident at the federal level. That is a matter of some concern for us.

I think it is fair to say the atmosphere within the commission is very positive rather than adversarial. There is not the notion, at least within those representatives of the constituencies, of a lack of acceptance or legitimacy of any of those parties but, rather, one of the necessity of those three parties sitting down and working through manpower problems in a collaborative way.

Mr. Cassidy: But I am talking about a more general question, which is the general climate of worker-management

relations, let us say. It is a jungle out there, certainly in a number of the smaller firms and work places. Hell's bells, in the banks it is all very nice--people wear red roses and so on--but when you look at the treatment of many bank workers, it is still a jungle for them. Efforts to find a way by which the workers can speak up and protect their interests, as you know, have been consistently rejected and beaten back by the Canadian chartered banks, which are far from unsophisticated employers.

Dr. Wolfson: That is an issue that has been addressed more centrally by the Ontario Quality of Working Life Centre and its advisory committee.

Mr. Cassidy: It is something the manpower commission should be aware of. If the climate is wrong, then a lot of the things you may want to achieve in what happens in the work place aren't going to work.

The final point I would ask is about the preparation of proposals on the handicapped. Some of your reports a couple of years ago identified disadvantaged youth as being a group with particular needs. I am not so sure you have focused on the manpower needs of disadvantaged adults.

For example, I think of the terrible and increasing obstacles put in the way of public housing tenants and family benefit allowance recipients in Ottawa. One day they find the Ontario student assistant program regulations have been changed so that they cannot go through community college if they have to take a couple years of high school upgrading first. The next day, they find out the Canada employment people have gone into critical skills program and are no longer prepared to support basic upgrading. The next day they find entry into the course for which they are qualified at the community college is available but they have to hold themselves ready to go in at any time in the next few months with maybe only three or four days notice. If they cannot show up on time because it is treated as a job they will be bumped from the course and eligibility despite their very practical problems such as what do they do with the kids? That is not taken into account.

Dr. Wolfson: Sure. I don't want to be seen to be passing the buck, but most of the problems you are raising relate to the administration of the federal programs rather than our own.

Your general comment about the necessity to concern ourselves with disadvantaged adults is very well taken, particularly now that the baby boom cohort has moved into its twenties and a decade from now will be in its thirties. We have to look at a broader picture in our employment development activities. This has its most recent manifestation in the initiative the government took in its last budget where it introduced a new youth employment program of \$25 million but for the first time youth was defined as being between 20 and 29, not between 16 and 24. We aged the youth problem by five years in Ontario in the last budget.

Mr. Breaugh: We'll have to get it up to age 40.

Mr. Cassidy: Remember, don't trust anybody over 30.

Dr. Wolfson: There are going to be more of them than us.

Mr. Cassidy: I appreciate the answers from Dr. Wolfson. As a group, we might have a bit of a discussion. Maybe Mr. Eichmanis has some questions of the structure in relation to government. It is something very hard to get a handle on and perhaps accounts to some extent for the lack of visibility and presence of the commission. If it were more visible to the public and providing more advice in an outward direction as well as inward it might be useful.

3 p.m.

Mr. Chairman: One thing before we go to Mr. Johnson, while we have some members of the committee here. Could we stay after this afternoon's session and go in camera and discuss briefly the agenda for next week? I think we would be well advised to do it at this time instead of waiting until later in the week.

Interjection.

Mr. Cassidy: I have a limited amount of time as well, but for a few minutes, yes.

Mr. Chairman: That is fine. As any of the other members come in, you might also mention to them that we are going to hold this brief meeting after.

Mr. J. M. Johnson: Dr. Wolfson, I have a couple of thoughts. They are not really questions, but I will throw them at you.

Your commission has the responsibility for advising cabinet on all manpower matters. I would throw at you that some better use of our human resources would be one field that you would likely conclude could be addressed to cabinet. I am thinking in terms of small-town Ontario and the feasibility of encouraging industry to locate in our smaller communities. I say that without any city members here except Michael.

I am thinking in terms of commuters and the amount of time they spend driving to jobs in the cities. In my riding it is quite apparent that people drive maybe an hour each way, and in my mind there is a social loss of a couple of hours a day for these people. There is also an economic loss for the cost of their transportation and road facilities. In the smaller communities, many people walk five minutes to work.

Would it not be feasible to take a look at encouraging small industries to locate in small communities?

Dr. Wolfson: I think that is a very good point, Mr. Johnson. Indeed, one of the more encouraging aspects of the application of microelectronics is that it is going to make that kind of thing more possible than it has been in the past. With the advent of electronic communication being cheaper and being fast, we can have really quite substantial transfer of commercial and industrial activity out into those kinds of small communities.

I think Digital Equipment, which is the second largest computer company, is headquartered in New Hampshire, in some town of not great magnitude outside an urban centre. That kind of development has also occurred in the Silicon Valley in California. I think it is a development that we could anticipate having in Ontario as we move into industries and businesses that are based on the application of new technology.

Mr. J. M. Johnson: I have experience in my own community on the industrial committee for many years. We were told by some of the top people in the industry, and I believe the Toronto-Dominion Bank was one, that there is no hope of trying to entice industry from Toronto and Montreal to locate in small communities, that they are just not oriented to it; they think in terms of the large city. They advised us to look for American industry, because they were oriented to smaller communities. We did have success in this field; so what you say about Americans is very true.

There is something the matter with the rationale of the Canadian manufacturers that they do not think in terms of the benefit of the smaller communities. We have urban problems that are not in the small communities, and there are so many people who have to seek jobs in the cities, that it would seem to me a logical way we should be going.

Several years ago the Ministry of Industry and Trade had a program for slow-growth areas; they would entice industry to go into the slower-growth areas and they had either grant or loan programs that made it feasible. I do not believe there are any of these programs in existence now.

Dr. Wolfson: I am sorry, I am not really familiar with the full range of programs that Industry and Trade has in that respect.

Mr. J. M. Johnson: Am I off-base on this, or is this something in your field?

Dr. Wolfson: I think the development of industrial activity is more squarely within the operation of the Ministry of Industry and Trade, but it obviously has implications for manpower requirements and the deployment of our labour force; so it is an issue that we should be involved in.

Mr. Edighoffer: Just by way of supplementary: Does that mean that the commission never really takes a look at Ontario Development Corporations...

1505 follows

manpower requirements and the deployment of our labour force; so it is an issue that we should be involved with.

Mr. Edighoffer: By way of supplementary, does that mean the commission never takes a look at the Ontario Development Corp. and its activities?

Dr. Wolfson: We have not done that.

Mr. J. M. Johnson: I wonder, Alan, if I may suggest something. Has there ever been a study commissioned to look into the benefits or the disadvantages of small town versus city for employment?

Dr. Wolfson: Certainly the commission has not undertaken that kind of study. I don't know whether it has been done within the Ministry of Labour itself or Industry and Trade.

Mr. J. M. Johnson: If we are looking at a changing society and changing economic conditions, would it not be a good time to take a look at the feasibility of a proposal that small towns should be receiving some special incentives to attract industry? If we can create a worker who is more content in his job if he can save two hours a day that he doesn't have to travel on the road, it has to be an incentive to the worker and cost-saving to the province and to society.

Dr. Wolfson: I think that is certainly an issue that we could address collaboratively with the Ministry of Industry and Trade and we will take that up with them.

Mr. J. M. Johnson: I have a couple of other questions on the Canada-Ontario employment development program. I have a story, I am not sure if it is right or not, so I will throw it at you and you can tell me.

I heard of a company, I think was in Hugh's riding, that employed people under this program in the summer. Come winter, they laid off their permanent staff. They picked up students in the summer to work. They stockpiled their product and then they closed their plant for six or seven weeks. Is that feasible? Could it happen?

Dr. Wolfson: It is very unlikely that would happen under the Canada-Ontario employment development program, the first reason being there were very few students involved in that program. That was directed towards people who had been on unemployment insurance benefits and had exhausted those benefits. Those are not typically summer students. So I suspect it was some other program that was involved in that exercise.

The second reason is the terms of the grant are explicit that there cannot be any substitution of workers hired under the provisions of that program for any permanent staff. If that were occurring, the grant would be terminated.

Mr. J. M. Johnson: Are you, as chairman, satisfied with the co-operation that exists among the three sectors of education, business and labour?

Dr. Wolfson: Very much so.

Mr. J. M. Johnson: Things are working out well?

Dr. Wolfson: Very much so. We have managed to receive a very high degree of consensus on the various issues that come before the commissioners.

Mr. Chairman: Doctor, I pencilled myself in here after hearing Mr. Reid's comment this morning about the COED program. I might say that in my riding it has been the most efficient program I have seen. I wish other government programs could even approach it.

The co-operation was tremendous and it was a very active program. I have nothing but the highest words to say about it. In fact, I have written to the minister and complimented him on his program and on his staff.

Dr. Wolfson: I am delighted to hear that.

Mr. T. P. Reid: That's why the federal government is stopping it.

Mr. Chairman: Whatever hand you had in it, I certainly compliment you.

Dr. Wolfson: Thank you very much.

Mr. Epp: I wish you had done that with your program and written Bennett, because then we would still have that program. That is where we failed. We should have got you to write.

Mr. Chairman: No. I knew after the fact.

Mr. McLean: In the interest of time, Mr. Chairman, I have two or three questions but I will just ask one. How many times a year does your commission meet?

Dr. Wolfson: About six.

Mr. McLean: How does the economic policy of the government tie in with what your commission is doing? How do you view the role of your manpower policy with the overall economic policies?

Dr. Wolfson: There are two parts to the answer. First, our work has a longer time horizon than the general kinds of considerations that go into the formation of a budget. Given that is the primary vehicle for the government to implement economic policy, we would have a somewhat longer time horizon.

However, we take the economic policy directions of the government as the context within which we develop our particular manpower policy recommendations. To try to make sure that is a well integrated process, however, as I mentioned this morning, we have struck this interministerial committee, including Treasury, Industry and Trade, as well as ourselves and a couple of other ministries, to see how the manpower policy development can fit into the general framework of economic policy and, in particular, industrial policy.

3:10 p.m.

Mr. McLean: But your commission does have some input?

Dr. Wolfson: We do have some input in so far as the manpower aspects of economic policy are very much at the fore, when employment issues are concerned and when skilled shortages are concerned. So we do have input to Treasury in their economic thinking.

Mr. Chairman: Thank you. That is all the members that have questions.

Mr. T. P. Reid: I have one if I may be allowed, Mr. Chairman. It is a bit of a separate topic and I did not want to outstay my welcome this morning. What, doctor, have you done, or have you done anything, on labour productivity?

You mentioned in your remarks in reference to something else, more or less in terms of the new technology, that this was going to improve productivity. I do not have to repeat the statistics. You are probably better aware than I am that our productivity, however measured but usually by the labour measure, is awfully bad relative to other countries. Are you doing anything? Have you got studies or suggestions or policies for that?

Dr. Wolfson: In fact, we are just now initiating a study into labour productivity in terms of looking at the changes--I will try not to be technical here--in the ratio of employment output by various industries as they changed from 1971 to 1981. So we now have the census data for the first time coming on stream, which will allow us to track the shifts that are occurring within the economy in terms of those kinds of productivity measures.

As you say, the overall pattern of labour productivity was pretty dismal in the 1970s, but that camouflages some high points and low points, and we are now doing some research to try to identify which were the sectors and industries that did relatively well and which did relatively poorly. We are trying to detect some underlying trends in that decade before we take into account the impact of new technology.

Mr. T. P. Reid: What always bothers me about this discussion is that while we measure it in terms of labour productivity, we are always talking about productivity improving by replacing people with machines. Productivity, to simplify it, is simply all the inputs as opposed to what the output may be. But the emphasis always seems to be strictly on or measured in terms of the labour output.

What I have been reading recently and over the years, certainly from the academics, of which I believe you were one, is simply that productivity in a lot of cases is not "labour or working man or person productivity" but to a larger extent it is a managerial problem somewhere down the line, possibly because of outmoded capital equipment and all the rest of it.

There has not been, in Ontario at least, and I have seen very little in the federal House, any kind of sophisticated discussion about productivity at all. Some of your colleagues put out a study for the Ontario Economic Council which, frankly, I found completely useless in terms of anything that anybody could understand or would care to plough through. Can you expand on that?

Dr. Wolfson: I think you have raised a very good point. I would hate to try to defend a track record of economics in handling this troublesome issue.

I take issue with one comment. That is that we think of enhancing productivity in terms of substituting machines for people. Traditionally, we thought about it in terms of giving workers more machinery as the vehicle for increasing their productivity. So it is complementary factors rather than substitutes very often that lead to productivity enhancement.

But you are right when you say that we focused on labour as the fundamental factor rather than capital or management. I am afraid that the reason for that is a subservience of economics to data. It is much easier to get a handle on the number of man-hours that are devoted to any production process than to measure capital--you cannot count machines the way you can count man-hours--or indeed to get a handle on the measurement of managerial input.

In some sense I think that has dominated the analytic work simply because we could refine our measures of the labour input better than the other factors. I must say I think that is becoming less and less a justification because the ability to define labour inputs in an unqualified way is not as easy as it used to be. We have schools of human capital that now treat the labour factor as not significantly different from other factors of production. But it has been a problem in the analysis of productivity trends.

Mr. T. P. Reid: Are you doing anything explicitly on this type of thing?

Dr. Wolfson: As a matter of fact, we were contemplating just last week trying to do some work on measuring the productivity of capital as well as of labour in the context of looking at the changes from 1971 to 1981. We will be investigating that. The data sources are very weak.

Mr. Chairman: Thank you. I think Mr. Eichmanis has a few questions of clarification as to the mechanics of your commission. Perhaps he could go through those.

Mr. Eichmanis: Yes. I was wondering if we could spend a short bit of time talking about the structure of the commission and the decision-making processes.

For example, you just mentioned now that you were thinking last week of doing this study. The question is, where did this idea originally come? Did it originate, say, with the members of the commission on the tripartite side, did it come from the staff or did it come from cabinet? How do ideas come to the commission

that you then spend some time studying them?

Dr. Wolfson: It can come from a variety of sources and it does. The project I mentioned came on the initiative of a staff member. Some of our other research undertakings or policy development activities would originate from the commissioners themselves. Still others have cabinet as their source. Requests for us to involve ourselves in policy development may originate with cabinet or the Minister of Labour.

Mr. Eichmanis: With respect to the tripartite commissioners, if you like, to what extent are they involved in the day-to-day operations of the commission? Do they meet once a week, once a month, once a year? What is their involvement in the day-to-day operations?

Dr. Wolfson: They meet about six times a year. They have very limited involvement with the day-to-day operations of the commission.

Mr. Eichmanis: What is their role? Do they simply review the studies you prepare?

Dr. Wolfson: They have a number of roles. First, they have a role to play in carving out the broad areas in which the commission staff should be working and having input into the subject matter, as I just indicated, of our research and policy work.

Second, they have a role to play in reviewing the results of our research. They vet it, if you like, for quality before it is made public.

But the most important role played by the commissioners is to review policy documents that are prepared by the staff for their consideration and to develop recommendations to transmit to the cabinet committee on manpower.

Mr. Eichmanis: You also indicate, on page 9 of your brief, that you have a co-ordinating role, but you do not really go into too much detail as to exactly what that entails. I surmise from other statements you have made earlier in the submission that there are various interministerial committees that function and so on.

Dr. Wolfson: That is correct.

Mr. Eichmanis: It seems to me, looking at your terms of reference, that you have this broad executive power, if you like, to deal with manpower issues and so on. How does that interministerial committee system work so that you can influence the other ministries, since you are the principal people responsible for those programs and policies?

Dr. Wolfson: We are responsible not so much for the programs themselves as for co-ordinating the activities of the various ministries as they relate to manpower matters and ensuring that there is some integrity to the government's overall activity.

What we have done to facilitate that effort is to strike a number of interministerial committees. For example, we had an interministerial steering committee for the evaluation of youth programs. We had another committee to review the youth envelope and determine recommendations for its general direction. We have the interministerial committee I mentioned to you regarding a general framework for manpower policy and its integration with employment policy and industrial policy. We have a committee on native employment programs trying to integrate the perspectives of the various ministries that are involved in that respect. There are a number of others. We have used this vehicle of interministerial committees and established our initiative to try to effect that co-ordinating role.

Mr. Eichmanis: I am just curious how this works. You have interministerial committees. Presumably this is on the assistant deputy minister level and so on? At what level is it?

Dr. Wolfson: It can be at any level. It ranges from assistant deputy ministers to staff at the working level.

Mr. T. P. Reid: And working on it?

Interjections.

Dr. Wolfson: I said that wrong, I'm sure. I didn't want to imply that assistant deputy ministers don't work. At more junior working levels.

Mr. Eichmanis: On the co-ordination, you are basically just mainly discussing things, what each ministry is capable of doing and is doing. Do you monitor what that ministry is doing in various fields?

Dr. Wolfson: Yes, we do. Generally these have a specific objective. For example, on the training front we are involved in relating to the federal government with respect to training policy. We will want to ensure that the perspectives, certainly of the Ministry of Colleges and Universities but also of Treasury, Industry and Trade and some of the other ministries, are plugged into determining the overall posture of the Ontario government in making representations to the federal government.

Mr. Eichmanis: When you take a submission, your recommendations, to the cabinet committee on manpower, what happens? Is there a filtering process back down again to you and to the various ministries? What happens after a recommendation is approved by cabinet?

Dr. Wolfson: Cabinet would then direct on how those recommendations should be implemented. Sometimes that calls for the manpower commission to involve itself in the implementation; sometimes it calls for line ministries to undertake specific actions, and we would be involved then only in a reviewing capacity.

Mr. Eichmanis: Very interesting. The other area was the

field intelligence that you do. I was wondering if you could give us a little more information on exactly how that works and what the field intelligence operation is.

Dr. Wolfson: I guess there is both a formal and, if you like, a looser network of field intelligence. The formal network is basically structured around the community industrial training councils that have been established by the Ministry of Colleges and Universities. There are some 63 such CITCs throughout the province whose purpose it is to identify local labour market needs and training needs. We tap into that network to try to complement the broader, macroeconomic approach that comes down through our computerized forecasting system.

Mr. Eichmanis: I take it you do not have representatives on each of these 63 councils, though.

Dr. Wolfson: No, we do not, but the Ministry of Colleges and Universities does, so we can link into that network through their good offices.

Mr. Eichmanis: There is an informal system as well?

Dr. Wolfson: There is an informal system as well of associations that we have with labour unions and industry groups as well as individual employers whom we meet with and get information from as to where they think trends in the labour market are going.

Mr. Eichmanis: No more questions.

Mr. Chairman: Good. I think that is it. Thank you very much, gentlemen, for appearing here and being helpful.

Dr. Wolfson: Thank you very much. It is a pleasure being here.

Mr. Chairman: As far as Hansard is concerned, that will end the examination of the agencies, boards and commissions for today.

The committee continued in camera at 3:26 p.m.



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:

ONTARIO CANCER TREATMENT AND RESEARCH FOUNDATION

WEDNESDAY, SEPTEMBER 14, 1983

Morning sitting

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)

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Cassidy, M. (Ottawa Centre NDP)

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Johnson, J. M. (Wellington-Dufferin-Peel PC)

Mancini, R. (Essex South L)

McLean, A. K. (Simcoe East PC)

McNeill, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Watson, A. N. (Chatham-Kent PC)

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

Witnesses:

From the Ontario Cancer Treatment and Research Foundation:

Clarke, Dr. E. A., Head, Division of Epidemiology and Biostatistics

Gray, R. D., Secretary-Treasurer

Hryniuk, Dr. W. M., Director, Ontario Cancer Foundation, Hamilton
Clinic

Maus, Dr. J. H., Director, Ontario Cancer Foundation, Windsor
Clinic

Meakin, Dr. J. W., Executive Director

Meighen, M. A., Chairman

Stevens, R. W., Chairman, Ontario Cancer Institute

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, September 14, 1983

The committee met at 10:08 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS
ONTARIO CANCER TREATMENT AND RESEARCH FOUNDATION

Mr. Chairman: Gentlemen, having a quorum present, I think we can carry on. You do not have a written brief this morning, do you? Do you wish to make opening comments? Could you for Hansard and for the members identify yourselves from north to south? That would perhaps help identify you for the questioning.

Mr. Meighen: Perhaps each of us could stand up in turn and do it so that members of the committee will know who is who.

Mr. Chairman: Excuse me. If the people not at a microphone are going to speak and help us out, would they come up to one of the microphones for Hansard? You are most welcome to assist with the presentation.

Dr. Clarke: I am Dr. Aileen Clarke and I am the head of the division of epidemiology and statistics of the Ontario Cancer Foundation.

Dr. Hryniuk: I am Dr. Bill Hryniuk, the director of the Hamilton regional cancer centre.

Dr. Maus: Dr. John Maus, head of the Windsor clinic of the Ontario Cancer Foundation.

Mr. Gray: Bob Gray, secretary-treasurer of the foundation.

Mr. Meighen: Michael Meighen, chairman of the foundation.

Dr. Meakin: Bill Meakin, executive director of the Ontario Cancer Treatment and Research Foundation.

Mr. Meighen: I should also say that we have Mr. R. W. Stevens, who is the chairman of the Ontario Cancer Institute, with us today as an observer.

Interjection.

Mr. Chairman: Thank you, Mr. Meighen. You are going to be the leading spokesman. Is that correct?

Mr. Meighen: Mr. Chairman, I would like to make a general opening statement. I do not know whether subsequently you will find me the best victim. We have others with more technical knowledge and information than I, of course. I am not a physician. With your permission, I would like to make a brief opening statement, and then any questions the members would care to put we will do our best to answer.

Mr. Chairman, members of the committee, we of the Ontario Cancer Treatment and Research Foundation welcome the opportunity to meet with your committee. You have met those who are with us today as resource persons and, of course, Mr. Stevens, whom we particularly welcome as an observer in his capacity as chairman of the Ontario Cancer Institute at the Princess Margaret Hospital, which is so closely affiliated with the foundation, as members know, under the terms of the Cancer Act.

Perhaps I could briefly describe how the foundation came into being, what it is today and what we would like it to be five years from now. The foundation had its origins in a royal commission established by the province in 1931 to inquire into the use of radium and X-rays for the treatment of the sick and into the establishment of cancer treatment, research and education facilities in Ontario.

The commission reported to the Legislative Assembly in 1932, and in 1934 the Cancer Act was passed establishing the Ontario Cancer Treatment and Research Foundation. The act was amended--I am referring particularly to part II in 1952--to establish the Ontario Cancer Institute, incorporating the Princess Margaret Hospital as a provincial centre, and was again amended in 1972 to provide for the confidential collection of information on cancer patients.

Over the past 40 years the foundation has evolved into an effective cancer control agency supported centrally by the government but functionally rooted in the community. Our major responsibilities can be summarized as a natural and interdependent triad, namely, the provision of treatment for cancer, support of research in cancer and the provision of education in cancer directed to both the health profession and the lay public.

The heart of the foundation is its seven regional treatment centres. These are at present located in Thunder Bay in the northwest; Ottawa and Kingston in the east--I should mention, perhaps, that Ottawa incorporates two divisions, one at the Ottawa Civic Hospital and one at the Ottawa General Hospital--Hamilton, London and Windsor in the southwest; and Toronto in the south. In Toronto, of course, there is the Princess Margaret Hospital, Ontario Cancer Institute, and the Toronto Bayview Clinic, located at Sunnybrook.

Each clinic provides consultative, diagnostic, radiotherapy and chemotherapy services plus surgical consultation and minor surgery. In each centre the clinics are attached to a host hospital to reduce costs in providing beds and diagnostic support services. The clinics are staffed by full-time specialists in radiation and medical oncology supported by consultant specialists drawn from the community served.

The clinics provide two important elements in cost-effective cancer care, namely, the regionalization of expensive high-technology radiotherapy equipment and the milieu for multidisciplinary decisions on the optimal method of managing the patient. On a regular basis members of the clinic staff travel to 21 community hospitals throughout the province to see new and old

patients, to minimize travel for these patients and to maintain contact with the community doctors. In addition, the staff of the Princess Margaret Hospital attend in seven communities on a regular basis. Whenever possible, patients who come to the clinics for treatment are housed in lodges or hostels at a cost ranging from \$21 to \$44 per day--that is a cost to the foundation--in 1982, compared to the average for our host hospitals of over \$250 per day for hospitalization.

Over the past decade we have seen an annual growth rate in our work load of approximately four per cent per year. In 1981, of the estimated 33,000 new cases of cancer in Ontario, the clinics saw 10,567 and the Princess Margaret Hospital 7,323, a total of 17,890, or 54 per cent of all cancer cases in the province. The overall work load in 1981 is reflected in the number of patient visits. These totalled 396,201, of which 231,199 were to the clinics and 165,002 to the Princess Margaret Hospital.

In addition to the regional treatment centres, the foundation supports a number of provincial programs, some of which are carried out through the regional treatment centres. For example, travel costs are defrayed for needy patients coming from more than 25 miles to the regional treatment centres. Under 25 miles it is generally the Ontario division of the cancer society that defrays the costs. Anti-cancer drugs are provided to needy patients anywhere in the province where there is no other mechanism for cost recovery. Some cancer diagnostic tests are subsidized in selected regional laboratories using a closed-ended budgeting mechanism.

The foundation supports training or educational experiences in cancer medicine for medical students, physics students, radiation technologists, nurses, radiation oncologists, medical oncologists and research scientists and continuing medical education for medical practitioners.

In the field of research, the foundation supports researchers at the Ontario Cancer Institute, its clinics--that is, the clinics of the institute and not of the foundation--and in the health sciences complexes of the province. Recently, with the assistance of provincial lottery funds, we have inaugurated a program of clinical research centred in Hamilton but integrating researchers in seven clinics, the Ontario Cancer Institute and the five medical schools. Every two years a conference is held so that investigators can exchange information on current cancer research. The last one, I believe, was held in Kingston last fall.

Dr. Meakin: Yes, and one in Couchiching this fall.

Mr. Meighen: And one coming up in Couchiching this fall.

Every five years our research program undergoes an external review under the auspices of the Ontario Council of Health. The last such review was in 1980.

Education and research are essential if Ontario residents are to receive first-class treatment at the cutting edge of world knowledge. But for forward planning of treatment, education and

research. we need accurate knowledge concerning the dimension of the cancer problem in Ontario at any given time, to know how it is changing and to know whether our treatment methods are optimal. Thus, the foundation operates the Ontario Cancer Registry, which compiles a record of all cancer cases by diagnosis, age, sex, residence, etc. To reduce costs, we use existing health records, which are linked by computer. Because of limited funding in the past, the data of the registry were not accurate beyond 1971 but have now been updated to 1975 and will be available to 1981 by next year.

The foundation's affairs are managed under the Cancer Act by members of the board appointed by order in council. The act also specified an advisory medical board appointed by order in council to provide advice during the establishment of the foundation. With the maturity of the foundation and as a cost-saving measure, this government-appointed advisory medical board was sunsetted, with our complete concurrence, I might add, as of March 31, 1983. It will be replaced by a smaller health advisory council appointed by the members of the foundation board.

The principal financing of the foundation is derived from separate government grants conveyed through the Ministry of Health covering the following programs: insured service; cancer control; research; and equipment. In 1981-82 these grants totalled \$28,024,540. In addition, approximately \$3 million was provided for clinic construction through the host hospitals.

To complete the financing of its programs, the foundation depends on two additional sources. First, the Ontario division of the Canadian Cancer Society has provided funds for a variety of purposes, including one third of the construction costs of new or major upgrading of clinics; 100 per cent of the construction of most hostels or lodges; some equipment; education; and special projects. Second, spontaneous donations of approximately \$500,000 per year from patients, their relatives or the general public provide an important element in completing our programs. In return for the support of the cancer society, we do not solicit funds from the public at large.

Thus our programs are made possible by government funding supplemented by the private sector. Our financial records are audited annually by the Provincial Auditor's office, and our annual report, Cancer in Ontario, together with the audited financial statements, is submitted and tabled each year before the Legislative Assembly.

As far as the future is concerned, I think it is fair to say that Ontario can be proud of the level of cancer control achieved over the past 40 years. Indeed, this province was one of the pioneers in developing regional radiotherapy at a considerably reduced cost compared to the uncontrolled entrepreneurial approach of some other jurisdictions--thinking notably of the United States.

But time brings new challenges in providing quality care at reasonable cost. In the early 1970s a role study of the foundation and the institute provided guidance to us and to government. We now feel that a new role study is urgently needed and are happy to report that the Ministry of Health concurs. Some of the issues that need immediate attention are briefly summarized.

The modern multidisciplinary treatment of cancer patients continues to involve surgery and radiotherapy, as in the past, but now many patients require chemotherapy to achieve control or cure. Many of these drugs are expensive and toxic. While surgery and radiotherapy are regulated by licensing bodies or hospitals, anyone with a general medical licence can prescribe chemotherapeutic drugs. We are concerned about the rapidly rising cost not only to the public purse, but also to the patient, who may receive such drugs unnecessarily or inappropriately. We believe that the foundation could play a salutary role by interacting with physicians in the community to achieve optimal treatment at reduced cost.

10:20 a.m.

The Ontario Cancer Registry, to which I have already referred, needs to be more fully developed so that we can respond promptly with timely information to the numerous requests we receive from government, industry, health centres, the general public and, indeed, the international community. Without it, adequate monitoring of the environmental impact on cancer incidence in the work place and the home will not be possible and long-range aims at the prevention of cancer will be delayed.

The provision of adequate cancer care in northern Ontario needs to be addressed with respect to our centre in Thunder Bay and its service in the northwest and also to the development of local service in the northeast.

Modern cancer treatment requires access to high-cost imaging methods such as CT scanners. At present, ease of access varies across the province. We wish to examine through this role study whether or not this can be improved with appropriate planning.

Whether we cure, prolong life or simply comfort, we believe that quality of life is important to the cancer patient and his or her family. We believe this aspect of cancer care needs more emphasis at both the research and patient management levels.

The 1980s are seeing the evolution of the surgical and paediatric oncologists. More surgeons and paediatricians are committing their practice fully to cancer. At present, we do not have an optimal mechanism to incorporate them into the regional treatment centres. Similarly, the dentist who must interact with cancer patients is not fully integrated, and we believe there are ways by which this might be done.

Finally, the 1970s have seen the development of district health councils. This process is still evolving in Ontario. Our experience in relating to existing health councils has been good, but we believe this interface should be examined so that our province-wide mandate in the provision of cancer control interacts optimally with the regional health councils.

We recognize that in times of economic constraint it is difficult to achieve all of one's wishes, regardless of how laudable they may be. Nevertheless, we will try to plan rationally for the future and bring our recommendations forward to government in a responsible fashion.

Thank you, gentlemen, for your attention. We would, of course, be pleased to respond to any questions you might have.

Mr. Epp: Mr. Meighen, I appreciate the brief you are presenting this morning. Have you any more copies of that?

Dr. Meakin: We will make it available, sir.

Mr. Epp: Okay. Thanks very much.

What kind of progress has really been made across the world with respect to the treatment of cancer? I know we are making small steps. Is there any real projection as to when we might get to a point where we can really deal with the spread of cancer and so forth? I know this is a very difficult question to answer; it has to do with research, and you or someone may want to answer it.

You see so many people who have cancer and get treatment. Then they seem to be in a state of remission, but all of a sudden they get it again and they are dead six months or a year later or something of that nature. You have to feel very sorry for them. I am just wondering what kind of progress is really being made to deal with this very devastating disease.

Mr. Meighen: As a nonphysician I would hesitate to venture any medical answer to that, and I will turn it over to Dr. Meakin. My one year's experience as chairman of this foundation brought home to me that--I do not know whether this is a good analogy--it is a gigantic jigsaw puzzle, and we are certainly far from knowing where all the pieces fit. But each year it becomes apparent that we find more pieces fitting into more holes, and the physicians, anyway, tell me we are getting closer. How close I will ask Dr. Meakin to address.

Dr. Meakin: Mr. Chairman, ladies and gentlemen, it is a difficult question to give a totally satisfactory answer to because we do not yet fully understand what cancer is. It is probably multiple diseases, just as infectious diseases are due to multiple agents. There are probably multiple causes for cancer.

I have been in the field now actively for 23 years, and while the rate of progress has not been as rapid as I would like it to have been, nevertheless, I think we can point to some very substantive improvements in selected areas. At the treatment level we have the example of leukemia, particularly in children but also certain types of leukemia in adults, coming under control, particularly through improved chemotherapeutic measures and the ability to carry out successful bone marrow transplantations, which are carried out now in this province principally in the Princess Margaret Hospital, the Hospital for Sick Children and to some extent in Hamilton and Ottawa. That is an example.

There are other tumours such as cancer of the cervix and certain of the tumours of lymph nodes that are now being effectively treated with radiotherapy during the early phases of their presentation. We have examples of choriocarcinoma in women, a cancer deriving from the products of conception, which was almost uniformly fatal 20 years ago and now it is uncommon for

that disease to be fatal. I think we are beginning to be able to start to talk about cancer cure, when 20 years ago I do not think we could. That is on the treatment level.

On the preventive level, we perhaps have not gone as far yet because we still do not understand completely the causes of cancer. We can guess at some of them, but I will take smoking as an example. If it were possible by one means or another to convince our population to desist from smoking, not only would it reduce the health bill in the areas of heart and lung disease, but very dramatically in the area of cancer.

There is not much doubt about the incidence that is already established in the male population, but the females are now rapidly catching up. That is an example where if, through educational, legislative or other means, it were possible to contain the smoking habit, there would be a very distinct drop in the incidence of cancer. That is a very general answer.

My feeling at the present time is not to be too dramatic in one's utterances, if you will, to the public and raise false expectations. There was an example of that in the United States during the Nixon administration where false expectations were raised with the notion that money could solve what was really a very complex fundamental basic science problem.

Mr. Epp: Does there seem to be a spread of cancer in the last 20 or 30 years, do you think, or is it just that we are much more aware of the disease than we were maybe 20, 30 or 40 years ago? Sometimes when you hear people talking about it and you see so many who have it, you get the impression that there seems to be more cancer around now than there was 20 or 30 years ago. I do not know whether that is a false impression. What is your view on that?

Dr. Meakin: My feeling is it probably is derived from a variety of sources. One, diagnoses are now being made more precisely by doctors that may have been overlooked in the past. Two, like tuberculosis in the past, there has been a stigma, if you will, perhaps just derived from fear associated with cancer. People are ready to talk about it more openly today. There is no doubt that the frequency of certain cancers, such as cancer of the stomach, is falling for reasons that we do not understand. On the other hand, it is counteracted by a rapidly incidence of cancer of the lung.

Overall on an age basis the frequency of cancer probably is not changing very much, but we are faced with an ageing population in our society and in an ageing population, as a consequence of age, one can expect cancer incidence to increase.

I might defer for any additional comments to my colleague Dr. Clarke, who is an expert in the area of cancer incidence and epidemiology.

Mr. Epp: Dr. Clarke, do you want to sit over here? There is a microphone right here or there. That is fine.

Dr. Clarke: Ladies and gentlemen. I think you should be aware that if you look at the mortality from cancer in Ontario between 1930 and 1982, which we are able to do at the foundation, taking into account the ageing population, the mortality from cancer has actually declined if you exclude lung cancer in both males and females, but if you include lung cancer, you are correct, there is an increase in the mortality.

10:30 a.m.

Mr. Chairman: I believe there is a microphone on the overhead projector if you could perhaps use that.

Dr. Clarke: This is an example of a different way of looking at the cancer problem. This is taking mortality data in 1981 in Ontario and indicating the number of person-years of life that has been lost due to the different deaths. You will note this is in women and that 30 per cent of years of life lost prematurely can be attributed to cancer. The high proportion of accidents is that accidents occur to a large extent in younger women.

I would be happy to answer other questions or show more statistics to indicate that there is a fall in cervical cancer mortality over time, part of which can be attributed to prevention, and there is a very marked increase, which perhaps Dr. Hryniuk might like to show, in lung cancer. There are areas where we are having an effect you can see in terms of mortality, and that is in terms of Hodgkin's disease.

Dr. Hryniuk, do you want to talk about Hodgkin's disease?

Dr. Hryniuk: The point I would like to emphasize on that slide is that the depiction of potential years of life lost--this is to age 70--puts a different perspective on the entire problem. You see that intestinal cancer and lung cancer, which are by far the commonest in both sexes incidence-wise, are relegated to a minor position relative to breast cancer and some diseases which are not within the ken of most of us in this room. We do not see the children with leukemia, the women with ovarian cancer and these rare tumours which strike younger-aged populations. This other category of cancers is a heterogeneous group of very rare diseases, all of which strike younger people and most of which are curable with drugs; so these small groups are curable except for the intestinal and lung. You hear about a lot of people who died of lung and intestinal cancer.

The United States National Center for Health Statistics put this chart out recently showing the decline in cancer deaths overall in adults aged 15 to 34. In females, particularly occurring starting about the year 1970, due to a decline in carcinoma of the uterus because of better and earlier detection of carcinoma of the cervix, the cancer death rate has dropped dramatically. There may be an upturn in this with an increase in herpes virus infections, which you may have heard about, that are genitally transmitted because that is believed to be one of the agents for the cause of this form of malignant disease.

As Dr. Clarke has said, the major impact has not been in the area of earlier detection but more effective treatment in Hodgkin's disease and leukemia. Here is a chart showing the Ontario mortality from Hodgkin's disease in men and women. For the other diseases I have alluded to, similar lines can be shown.

Mr. Epp: Would you attribute that decline primarily or exclusively to earlier detection?

Dr. Hryniuk: In the case of Hodgkin's disease, it is exclusively due to treatment. The incidence has stayed the same. In the case of carcinoma of the cervix, it is due to earlier detection with pap smears and treatment of the disease at the very earliest stage when you can just recognize the abnormalities on the microscope and at that point pick off the tiny tumours which you can only see with the microscope with newer techniques.

Mr. Eichmanis: What is the success rate for treatment of Hodgkin's disease?

Dr. Hryniuk: It is estimated that if one has a diagnosis of Hodgkin's disease one should have an 80 per cent chance of cure now no matter what stage one has. If one has the earlier stage, the cure rate is 100 per cent; the later stage is about 45 or 50 per cent.

I want to add also that people who are cured of cancer do not go around talking about it; so those events are not in your experience.

Mr. Epp: That is interesting. The primary group are the ones that have it for a long time and then die.

Dr. Hryniuk: That's right.

Mr. Cassidy: Doctor, since you are there, from what I hear you say, despite improvements in people being prepared to talk about cancer, in better access to medical care since the 1930s in this country under medicare and in improved techniques of diagnosis, the incidence of cancer, apart from lung cancer, is about the same. If that is the case, what would explain that? If there are a number of factors that should lead to increased incidence, are there other reasons for which there may be a decrease in incidence of cancer?

Second, you are saying that, apart from lung cancer, the mortality rate from cancer is less than in the 1930s. By what degree, by what factor would it be less?

Dr. Hryniuk: Dr. Clarke.

Dr. Clarke: It is actually very small, only about in the order of between two and five per cent the actual decrease in all sites of cancer. Dr. Hryniuk and I have given you examples of Hodgkin's disease and cervical cancer, but there has been a marked decrease in the incidence and mortality from stomach cancer.

He and I will carry on playing games. I think you have got

to be aware that there are some cancers in which there has been no change; in other words, breast cancer which, as Dr. Hryniuk pointed out, is responsible for eight per cent of the person-years of life lost in women. The mortality rate has not changed over time and the incidence of that cancer has not changed.

One can look at the overall picture, but I think it is misleading. One should look at each specific site of cancer and see the areas where we are being successful and the areas where we are not being successful. The most notable one there is lung cancer.

Dr. Hryniuk: This slide just underscores Dr. Clarke's point. If you look at calendar years here and female and male cancer deaths from lung cancer, you see that suddenly when women started smoking in the mid-1950s, 20 years later we are now reaping the harvest of the whirlwind. That line will rise sharply, even if all women stop smoking now, to the point where it will overtake breast cancer as a cause of death in females over the next two or three years. The trouble is that we have no effective treatments for lung cancer after it has spread beyond the local place where it started.

Mr. Cassidy: What I was saying earlier was that the incidence in general does not appear to have changed in 50 years with the exception of lung cancer and maybe one or two others such as stomach cancer and that the mortality rate from cancer overall, except for lung cancer, although it is defined, is defined only very marginally on an age-sex related basis. In other words, one's chances of getting it and dying from it today are very little different from what they were back in 1930 with the exception of lung cancer. Is that accurate?

Dr. Clarke: There is one slight drawback in that the earliest registry that has any information on the occurrence of cancer is Denmark's, and that starts in 1940. So we only can look at mortality for a 50-year period and we can only look at incidence for a very much shorter period in Ontario. We can only start looking at it in 1964 as opposed to mortality, which we can look at from 1931.

This might help. This is total cancers for males. You will see that there is a slight increase over time because lung cancer is in there. That is between 1931 and 1981. You will really see the marked increase in lung cancer, which in Ontario is beginning to level off, but the deaths from total cancers have increased very little.

10:40 a.m.

Mr. Cassidy: These are deaths. Is that right?

Dr. Clarke: These are deaths.

Mr. Cassidy: Okay. Can you just move away from the graph as it is difficult to see? Can you interpret it for me? There seem to be some blips and some moves around and so on, but in general what it is saying is that for most of those listed, apart from

lung cancer, the mortality rate has changed marginally. Is that right?

Dr. Clarke: Right. Lung cancer has gone up. Colo-rectal cancer is essentially flat. Prostatic cancer also has not changed since 1950. Stomach cancer has shown a marked decrease, and we do not know why. Pancreas, liver and kidney are there because they were leading sites, but they could be due to changes in diagnosis. We might be better able to distinguish pancreatic cancer in the late 1970s than we were in the 1930s.

Mr. Cassidy: This is mortality again. Is that right?

Dr. Clarke: Again, because we have such a short time period for which we have incidence. These are rates and they are age-adjusted; so the ageing population is taken account of in these figures.

Total occurrences in females over this 50-year period are showing a slight decrease in spite of lung cancer going up. The dotted line is a projection. Breast cancer, regretfully, is very stable, not hardly changing. Colo-rectal cancer in women, unlike men, shows a slight decrease. I have not been able to come up with an explanation for that. With ovarian cancer also there is no change in mortality.

They are very difficult to interpret without incidence data, and that is one of the reasons why Mr. Meighen indicated that one of our aims in the future is to upgrade the Ontario cancer registry so that we have accurate information not only on the mortality from lung cancer but also on the incidence from lung cancer.

Mr. Cassidy: Do you suspect that improved diagnosis, people having more access to medical care and so on may mean that more cases of cancer are coming to the attention of doctors so they have a system and therefore, relative to the cases that come in the door, the ability to cure or postpone is improving, but the mortality rate is simply a case of identifying more accurately people dying of cancer at the end?

Dr. Clarke: Yes, partly that. But you cannot get away from the fact that the same proportion of people are dying from cancer because these are rates. If you look at breast cancer, there is a suggestion in the Connecticut data that, although this mortality rate is very similar to that in Ontario, they have incidence data for a longer period of time and they have shown an increase in the incidence of breast cancer so that there could be an improved survival through earlier detection, but it is balanced by the fact that although we are seeing more--

Mr. Cassidy: It seems to be increasing.

Dr. Clarke: Yes.

Mr. Cassidy: Are there any patterns of cancer in which Ontario is significantly or surprisingly different from other parts of the world or the national, international or American averages, the kinds of things that epidemiologists can verify?

Dr. Clarke: You obviously know quite a lot about epidemiology. Yes, breast cancer is very high in Ontario. It and other parts of North America have the highest rate, taking into account the varying populations. Japan has one of the lowest rates. I have a diagram which would show that if you would be interested in seeing it.

Mr. Cassidy: Is there anything in which Ontario in particular stands out for some reason as being peculiarly high or low in terms of the incidence of a particular kind of cancer?

Dr. Clarke: Well, it is high in terms of breast cancer in comparison with the rest of the world. There are a number of suggestions as to why that might be. Currently it is either something in our diet or something in our hormonal makeup. Maybe Dr. Hryniuk might like to talk about why--

Mr. Cassidy: But this is North America; this is not something just peculiar to Ontario?

Dr. Clarke: No. Ontario is just high, as are other parts of North America.

Mr. Cassidy: Are there any environmental cancers that stand out in Ontario as being unusually high in incidence related to work place or to environmental conditions?

Dr. Clarke: No. I think lung cancer is the only--nothing really stands out as being peculiar to Ontario, as far as I know, because of the limitations of the registry at the moment.

Dr. Meakin: If I may just interject, Mr. Chairman, just following up Dr. Clarke's comment, so that the discussion we are having here this morning can be more complete. One of our great needs is to fully upgrade our Ontario cancer registry, because one cannot really measure what one is accomplishing purely from mortality data; one needs the incidence data to compare.

The second thing, with respect to your question about the environmentally related cancers, is that we need the incidence type of registry very badly. We are hoping that with time we may be able to refine that registry--and "with time" I mean over the next two or three years--perhaps down to the point of identifying cancers by postal codes so that they are identified within very small, discrete areas.

When we get to that point, I think we will be able to start to talk about the impact of the environment on cancer in this province. As of today, 1983, as Dr. Clarke has said, our data are sufficiently crude that we would not want to venture an opinion.

Mr. Chairman: Our researcher, Mr. Eichmanis, has a question or two about this registry.

Mr. Eichmanis: I was wondering if you could explain to the committee exactly what it is, how it is run, how it operates, what your hopes are for its future, how much money will be involved in expanding it and those kinds of matters.

Dr. Meakin: I will defer to my colleague Dr. Clarke in a moment, but I might just preface it by pointing out that there are really basically two types of registries in the world. One is an active registry in which people search documents, whether they are reports from doctors or hospital records, and really define manually the fact that a case of cancer exists. This is a very expensive method. In some other provinces of this country--I defer to Dr. Clarke for accuracy--I believe it costs something in the order of \$175 per case when all the bills are totalled up.

In Ontario, prior to the 1970s, attempts were made to develop a manual system and, indeed, some data were produced manually for the years 1969 through 1971. It was recognized that to proceed on a manual basis was going to be very expensive indeed; so some of my predecessors, including Dr. Clarke, began to develop the notion of a computer-linked passive registry, whereby we made use of existing health records.

I will let her tell you, if you wish, a little bit about how this passive registry works. Just within recent days we had evidence that it is going to work at a very much reduced cost, compared to other parts of the world. We are hoping it is going to be an international first.

10:50 a.m.

Mr. Chairman: Doctor, perhaps you could come and take the end seat, close to Mr. Cassidy. There are microphones there, unless you have something you wish to put on the overhead.

Dr. Clarke: If you don't mind, and I will try to keep away from the overhead so that everybody can see what I am going to show. It is difficult to explain how the registry operates, without using a visual aid.

Dr. Meakin has described the principle very well, in that we use a passive system of reporting so that we piggyback on data collected routinely on cancer patients throughout the province.

The records we receive each year, as you can see, are an enormous total. From the Ministry of Health we get hospital separations with a mention of cancer; that is, for every patient who is discharged with a diagnosis of cancer from any hospital in this province in a year, we receive a detailed record about that patient.

We also get pathology reports, which are submitted on a voluntary basis from pathology laboratories in the province. We also have, of course, very detailed information on those patients who are treated at the foundation clinics. From the Registrar General of Ontario we also receive information not only on cancer deaths but also on all deaths, and for the time period 1964 to 1971 we had approximately 150,000 records.

The problem is that a patient can be admitted to hospital several times in a year, can be admitted to different hospitals, can have at least two pathology reports, say, a biopsy and an operation, then be referred to a clinic and then ultimately die. This can happen over a period of time.

We are interested not only in knowing how many times somebody goes into hospital; what we really want to do is identify people. So, as Dr. Meakin says, we move to a computerized record linkage system.

Unfortunately, you can't just throw all those records into the black box of a computer, no matter how big, and come up with the answer. So part of the reason for the delay in developing this system is that we have had to go through a series of linkages.

We link the hospital file with the pathology file; that produces a composite file of hospital with pathology information. We link that with the clinic registration information and get again a composite record, which we then have to link back to the earlier years because, again to go back to breast cancer, there is a long survival in breast cancer; a patient can be diagnosed in 1964 and then maybe not come back into the medical care system for 10 or more years. Finally we link into deaths and come up with incidence.

Very briefly, how does this magic computer linkage work? It has been developed by Statistics Canada, Atomic Energy of Canada Limited and the National Cancer Institute of Canada. Unless you want me to go into detail, or I will talk about it later, essentially one assigns weights to various identifying pieces of information. You compare records with approximately the same surname, and if the weights of agreement are high enough, then you say that the records on that particular individual are the same.

This is an example of one of our linkages, and not only are we not showing you any pictures of patients but we are also not even giving you any identifying information because we have deleted it from this record.

These three records are the result of the hospital-pathology linkage, and I will tell you what it means. It means that this patient was admitted to the Humber Memorial Hospital on June 2, 1974. On June 17, 1974, at the Humber Memorial Hospital, an operation was done which confirmed the admitting diagnosis of lung cancer and indicated that it was an adenocarcinoma of the lung. The patient was subsequently admitted to the Princess Margaret Hospital on January 31, 1975. The diagnosis was confirmed. The Princess Margaret Hospital knew the patient was diagnosed in June 1974, and that was the date we had up here.

So the linkage process works. It is very efficient and very powerful. The thought of linking the large number of records that I showed you on that first slide by hand is a task that I would hate, and I admire my predecessor who did it. It took a lot of time.

This is just a comparison, because Dr. Meakin mentioned the costs. This is taking Ontario and Alberta. As you note, we have a much bigger problem than they have in Alberta because of our large population. Essentially, the bottom line is that we estimated a cost of about \$1.3 million in 1982-83 dollars, compared with \$963,790 which is spent in Alberta; so the cost per case is \$48 in Ontario, compared with \$170 in Alberta. Actually, we have more information in readily retrievable form than they have in Alberta.

Mr. Cassidy: I have a specific question, doctor. The role study with respect to the registry, from what you are telling me, is what you want the registry to be; you are either just about there or you have arrived. Is that correct?

Dr. Clarke: I have arrived to 1975. By next year we will have reached 1981 or 1982. We will not have arrived fully until we have the data on our own in-house computer. We reckon that will be 1986. At the moment we have to rely very heavily on the Ministry of Government Services computer, because we have only just acquired our computer facilities. We are so far behind in the generation of this data that we cannot afford to wait another three years until we can run it on our own system.

Mr. Cassidy: When will you have this material more or less updated and available for research purposes then? That will be within a year or so. Is that correct?

Dr. Clarke: Yes, as of now we have data up until 1975 which will be available for research purposes, and we will have 20 years of incidence data by next summer.

Mr. Cassidy: So, in essence, you will be able not just to track the cases and where they were and what kind of cancer but also you will have a run in terms of basically a simple file on every case of what happened when they came into contact with the health system.

Dr. Clarke: Yes. We will have a similar patient profile to the very simple one I showed you. In addition, we will have the ability to link--say there is an industry, or the workers or management, concerned that there is a health hazard; we will be able to take the workers who are identified as being at risk and, using the same linkage program that we use in the registry, take that group of workers and link them against our very simple, single record of every cancer case in over 20 years and be able to come out with an estimate of the number of cases of cancer that they observed versus how many we would have expected, taking into account the age and sex of the worker.

Mr. Epp: I have another question to do with research, but I may direct it to someone else. All of us are aware of Terry Fox. I am interested in your comments with respect to the impact that he had on research, both on the Canadian Cancer Society and more particularly in Ontario. Has it affected your group here?

Mr. Meighen: If I may, I would like to turn that over to Dr. Meakin, because I asked the same question. There is a great deal of myth and a great of reality across the province that people are not aware of. I think Dr. Meakin is well placed to answer that.

11 a.m.

Dr. Meakin: There is no doubt about it that Terry Fox had a profound impact on cancer research in this country and in this province. If I might first of all deal with Ontario, the government of Ontario at the time of Terry's run saw fit to

identify \$1 million and is providing us now with the interest from that \$1 million to support young cancer investigators in this province. It is an important part of our future programming in supporting young people who are investigating cancer, because the current cancer researchers in this province are ageing, and we are going to have a deficit by the end of this decade. So it is well that we are off and running with replenishing that anticipated deficit.

I think British Columbia is probably the only other province where the government intervened to identify dollars to support cancer research as a consequence of Terry's run; so it had an impact on governmental decision in two provinces.

The vast amount of the money raised, though, under the auspices of the Canadian Cancer Society, both during Terry's run and during the subsequent annual runs, has amounted to a very considerable number of dollars. Those dollars have been entirely transmitted to the National Cancer Institute of Canada, which, as opposed to the American National Cancer Institute, which is a federal-government-supported institution, is entirely supported, for all intents and purposes, by the cancer society.

Those funds have been channelled to the NCI, which has set up some new initiatives in the support of cancer research throughout Canada. They were able to do this with those funds when they could not have afforded to do them with the general funding they receive from the cancer society.

As an example, they have established in Canada relatively expensive programs that they have undertaken to support for, say, a five-year period, and the assurance of reasonably long-term funding is very important to any cancer investigator. They have instituted some other programs in the training of cancer researchers, notably to try to attract MDs into research. This is a difficult problem both in the United States and in Canada.

They have tried to be innovative with those dollars. If I may hazard an opinion, they have suffered a certain amount of public criticism about the rate at which they have expended them, and this is partly, I think, related to the psychology analogous to what existed, which I referred to, early in the Nixon era that if you have X dollars in a barrel and there are enough of them, you can solve the problem. It is not quite like that; it is going to take a somewhat longer period of time.

I think the NCI of Canada very rightly are trying to husband these dollars carefully so that they will be available to support cancer researchers not only through this decade but also into the succeeding one. They, like many other people, are having constant demands on their available dollars; so there is a continuing temptation to use the Terry Fox dollars perhaps more rapidly. If they acceded to all the demands placed on them for the Terry Fox moneys, they would be essentially dissipated by the end of this decade, and it is my hope that they take a reasonable stand about a reasonable rate of expenditure.

But in answer to your question, it has made a profound impact on cancer research in Canada.

Mr. J. M. Johnson: I would like to follow up on the research. I notice in your publication that you are a member of the International Agency for Research in Cancer. The question that concerns me is that there must be a tremendous amount of duplication in different provinces and different countries researching the same areas. Is this true?

Dr. Meakin: Yes. By the definition of research there is redundancy, and I guess there is redundancy for good reason. One likes to minimize it, of course. In our own funding program we work closely with the Medical Research Council of Canada and NCI so that we avoid double funding, for instance, of anybody who is applying for research support.

But by the very nature of research there has to be a certain amount of redundancy. One can never accept the findings of one individual or one group because, at least in the clinical area, one accepts a positive result if there is a chance of it occurring by chance of not more than five per cent. You may be wrong one time in 20, so you would like to see any new observation confirmed by another individual or another group. De facto, that creates a certain amount of redundancy. But I think in the scientific community this is recognized and accepted as part of the cost, if you will, of doing business.

Mr. J. M. Johnson: The hangup I have, I guess, is that I would think, not knowing anything different, that maybe there would be 20, 30 or 40 different agencies doing the same thing. I will accept what you say about two or three for checkup, or whatever. Is there a world data bank or any co-ordinating agency that has ongoing facts about what group is researching certain areas?

Dr. Meakin: No, there isn't in a formal fashion. It would be a vast and costly undertaking. But the applications of most people who are applying for research dollars are vetted by a peer group, experts in the field. As part of the process of making that application, they will have had to research the background of their proposal and cite the literature pertinent to it. In the proposal, both the person putting the proposal forward and the individuals doing the review would be cognizant of what is going on in the rest of the world. If it looks as though it is a mundane repetition of something that has been thoroughly established, the chances of that individual getting funded by the body reviewing it fall immediately.

Mr. J. M. Johnson: All the information is free flowing? If France is doing some project, you are knowledgeable about it?

Dr. Meakin: I would have to say, generally speaking, that is correct, that any worthwhile cancer investigator not only should be cognizant of what exists in the written literature but should also have been in contact by what we call the underground connections, if you will, on the telephone, by letter, by meetings. He should be ahead of what actually is written in the literature.

Mr. J. M. Johnson: I would assume one function of the international agency would be to co-ordinate.

Dr. Meakin: Actually, the International Agency for Research in Cancer is a special agency. No, it does not attempt that co-ordinative function in the fashion you cite. It is an agency established after the Second World War to a very large extent at the behest of General de Gaulle, is sited in Lyon and is primarily interested in the cause of cancer and its prevention. It is supported by a number of countries, notably from the western society. I am glad to say that Canada actually became formally involved with the IARC, I guess, about a year ago. Dr. Clarke?

Dr. Clarke: Yes.

Dr. Meakin: Dr. Clarke is a continuing contact with that agency for our particular organization.

In terms of co-ordination, perhaps to answer your question a little bit further, in this country we have what is called a cancer research co-ordinating committee, in which the Medical Research Council of Canada, the National Cancer Institute and the Ontario Cancer Foundation were the charter members. There are now additional organizations from other provinces joining that committee, and we meet at least once a year to exchange notes on policy and, indeed, to have the mechanism for interacting with the International Agency for Research in Cancer.

Mr. Epp: May I ask a supplementary here? Dr. Meakin, is there much research being done behind the Iron Curtain on cancer that you are aware of?

Dr. Meakin: There is research being done. I perhaps would defer to some of my other colleagues. My reading of the literature is that in the biological and cancer field it is well behind western countries. The Soviet Union, I think, has chosen as a matter of strategic policy to put most of the research dollars into the physical, mathematical and chemical fields, rather than the biological.

11:10 a.m.

Mr. J. M. Johnson: I have one more question that is a political question and has caused a lot of controversy, but I feel I should mention it. There were two items in the press recently, one in the Toronto Star on September 6 and the other in the Toronto Sun on September 8. There was a letter from Dr. David Nostbakken, director of public education, Canadian Cancer Society, pertaining to smoking. It is in reply to another letter written by Greg Parent, "Tobacco Growers Gasp for Breath." The doctor states:

"Not only do tobacco growers gasp for breath, tobacco smokers gasp for breath. There are approximately 30,000 farm workers who handle Ontario's tobacco crop. There are approximately 30,000 people who die each year in Canada because they smoke." He goes on to state, "It is the responsibility of all concerned to support the diversification of tobacco farmers into some product that nourishes rather than kills."

What bothers me about the letter is a footnote by the editor who states, "Governments love their sin taxes on tobacco too much to kill the industry." That is appalling that an editor should take that viewpoint. We do pick up a lot of money from tobacco taxes, but I think the cost in health and dollars, some \$1.5 billion for people who do smoke, more than offsets any taxes that we pick up.

Frank Jones in the Toronto Star on September 6 has an excellent article on the same story. He goes on to say: "A 1980 University of Waterloo study shows that at the age of 14, 15 per cent of boys are smoking and 20 per cent of girls; by 17, 27 per cent of boys and 30 per cent of girls are puffing away. The industry theme song should be: 'Thank heaven for little girls.'"

It is a sad condemnation of our society that we, as politicians and educators, people in the society, are not coming down a little heavier on what is a known fact. We have talked about cancer research. There is no question about the relation between tobacco and cancer. It has been well established. I guess we do not have to do too much about adults. They have the right to make their own decision, but surely we have the responsibility to the children of this province to give them all the facts, pound it into them, whether it is a matter of education or just something more drastic.

But I think we fail, certainly as legislators, by accepting the problem and not doing anything about it. We took the political risk for seatbelts because we felt it was in the best interests of the public and it has proven so. I think maybe the time has come when we should take a harder look at the facts. As I say, if we cannot do anything with adults, certainly we have a responsibility to do something with the young children in this province.

Dr. Meakin: If I might, may I make a comment, Mr. Chairman, about this issue and perhaps refer to my colleague Dr. Clarke about it? There is no doubt about it; both the society and the foundation would be concerned about this. I think you are probably aware of the society's efforts in terms of public education. They have a fairly vigorous program directed at school children. The Ontario Council of Health was concerned about this and, indeed, there was a task force established to look at this approximately two years ago. The foundation also played an active role in organizing co-operatively with the other statutory foundations and the Ontario Council of Health a symposium that Dr. Clarke organized to examine in detail the activities, particularly in the research area, that had gone on.

There are a number of approaches that can be taken. You can try to make a safe cigarette, you can try to develop some innovative educational program, or you can legislate.

Just commenting on your last comment, I do not pretend to know what the answer is. But I might ask Dr. Clarke if she could relay the factual component of the Norwegian experience taking the legislative route. Dr. Clarke, would you like to make a comment?

Dr. Clarke: Thank you, Dr. Meakin. You may all be glad that I have no overhead to show this time.

In the Scandinavian countries they have taken a very positive action with regard to the use of tobacco, particularly in Norway. At the conference the four statutory foundations held two years ago, the recommendations fell into three categories. At the workshop, Dr. Kjell Bjartveit, who was there from Norway, indicated the measures they have introduced there which have been effective in reducing the number of children smoking cigarettes.

The first restrictive measure that was introduced was a total ban on all forms of tobacco promotion. I would be very happy to give you a copy of Dr. Bjartveit's presentation and the different areas that cover, or answer any other questions you might have.

Mr. J. M. Johnson: I am not sure what we can do, but I do feel there has to be an education program developed that really can start out early, maybe in the lower grades, and teach the children the hazards of it.

I understand there are some horror pictures of lung damage caused by tobacco. Maybe if the children were shown these constantly, the results of smoking might sink in. I think the peer pressure is so much that we have to counter it.

Dr. Clarke: Yes. The biggest problem, of course, is the large amount of tobacco advertising that still exists in this province, and this is what they felt in Norway had the biggest impact. There was no tobacco advertising. There was also a prohibition which they endeavoured to enforce against the selling or handing over of tobacco products to persons under the age of 16. Now, I believe, there is a similar law in Ontario, but I am not sure how well it is enforced.

Mr. Epp: Dr. Clarke, first of all, could you make that study available to the committee here? Second, is the--and maybe you are not the person who should answer this--cancer society making recommendations to the province and the Canadian Cancer Society to the federal government with respect to advertising and other ways of reducing the incidence of cancer, or reducing the incidence of smoking, I suppose, which leads to cancer?

Dr. Meakin: there has certainly been a lot of discussion about that. I am not aware of any recent formal representation. Dr. Clarke, are you?

Dr. Clarke: No. The most recent form of recommendation came as a result of the workshop that was organized and it was given to the joint research review task force. In those recommendations was that there should be a total prohibition of all forms of tobacco promotion and that information about smoking in Ontario should be available in greater detail. I would be happy to circulate both the report of the conference and the recommendations that were made to the joint research review task force of the Ministry of Health to this committee.

Mr. Epp: Dr. Clarke, how long has that program in Norway been under way?

Dr. Clarke: It began in 1970.

Mr. Epp: So it is 12 or 13 years that it has been--

Dr. Clarke: Yes.

Mr. Epp: It has been quite effective during that period of time. Are there any other countries that have picked it up?

11:20 a.m.

Dr. Clarke: I am afraid this is not my area of expertise and I missed the last smoking conference in Winnipeg. I could get the information as to which other countries have picked that up because I have a colleague who attended that meeting in Winnipeg.

Mr. J. M. Johnson: Michael, I guess I am putting the onus on you to follow through with this. I think the key to it is the children. We can scatter advertising and do many things, and it doesn't amount to that much, but if we zero in on one group, which is the children, it will achieve the purpose over a period of time. If we can educate the children in the problems and cut that down, they in turn will go home and maybe convince their parents, so it could have an overlapping effect.

No one can be critical of a government or an agency trying to protect our young people. I think we will have less negative reaction if we zero in on that area rather than a broad approach that doesn't seem to be achieving too much.

Mr. Meighen: If I can just reply very briefly to that, obviously as someone in my position and as an ex-smoker, albeit only slightly over a month--but I was off for six years once, which is even worse when you think of going off for six years and then back on--I know something about the problem in a personal way.

Certainly, although clearly the provision of education in cancer is one of our mandates, the people who interface most directly with the public are, of course, the Canadian Cancer Society, Ontario division, and we work very closely with them. Taking your point, we would certainly transmit it to the society and we would do what we could in our own way.

It opens up a whole other area too, which we may or may not want to get into, but perhaps I should just underline the fact that you may not hear a great deal about the Ontario Cancer Treatment and Research Foundation. You hear much more often in the press of the Canadian Cancer Society, Ontario division, and that is really by agreement and by an informal carving up of the pie, if you will. They deal with the public, they go out into the schools, they put the signs in taxicabs, with the result, of course, that they they get a lot more in the way of donations and they get a lot more publicity. That is fine with us, as long as we don't get totally cut off from bequests and legacies and what not.

There is no harm in us both getting into the education field and we do, in a more formal way, act in that area, but the main delivery system, if I can put it this way, Dr. Meakin, and I hope you will agree with me, is through the Canadian Cancer Society, vis-à-vis the public. We certainly will not shirk our responsibilities in that area, but we don't want to try to outdo them in dealing one on one with the public.

Mr. Breaugh: I have a couple of initial questions from your remarks this morning, Mr. Meighen. One of the things which surprised me slightly, and shouldn't have since I was a Health critic at one time, was your remark concerning the use of the chemotherapeutic drugs and the use in particular by, I take it, general practitioners prescribing these drugs. You are hinting at a problem of some size. Could you elaborate on that a bit?

I recall when I was Health critic one of the things that did bother me a bit was that the traditional practices of medicine in Ontario had kind of been overtaken by science, by industry and by chemistry and a great many other factors here, so that general practitioners are quite within their rights to prescribe treatment which they may not really totally understand. One of the interactions which always fascinated me was the chemical industry, which works very hard at general practitioners using their products. General practitioners, at least the ones I talked to, often said quite flatly that, in running a general practice in a small Ontario community, they don't have access to a great deal of research and they become rather dependent on people who are, in essence, salesmen for products.

The salesmen, of course, fill their closets with those products and it makes the local doctor look rather nice when he can reach into his closet and provide somebody with a new drug. They do have ample warning systems in there and the physicians are supposed to read the research, but it seems to me there is a lot of room for human error in there.

I was somewhat taken aback when I noticed this morning that you have included that in your brief because, if I may put it politely, physicians and those who associate with physicians generally tend not to rat on one another.

Mr. Meighen: I associate with physicians. I don't mind associating with them on a social basis, but on a professional basis I try to do it as little as possible, so I don't mind ratting on them in that way.

You have put your finger on a problem that, as a lay person, I saw when I came to the chairmanship. My attention was drawn to it very particularly by Dr. Meakin. You have underlined the use of chemotherapeutic drugs perhaps in instances where other treatments would be more effective and I think that is one area of the problem.

From an administrative point of view, another area of the problem is the cost, because the usage has gone up and the cost of the provision of these drugs, as I understand it, has also gone up very sharply. This impacts very directly on us in managing our own affairs and spending our money as best we can.

The problem is real. As a lay person, again, you and I both heard, and you would know more about it than I, about the use of surgery in some places--cut it out rather than treat it--and there has been some criticism of that. I am not a doctor. I think it is a real problem, one which we have noticed, and I would like Dr. Meakin to address it in a more technical vein.

Dr. Meakin: Mr. Breaugh, the issue came to our attention really several years ago for probably two reasons. One, a very real one, is a fiscal one. The cost of chemotherapy in our clinics increased between the 1978-79 fiscal year and 1981-82 by a factor of almost three. Second, a survey of the total expenditure of antineoplastic drugs in this province between 1978 and 1981 increased by somewhat over a factor of two. So there are fiscal concerns.

The second one was that, as Dr. Clarke indicated earlier, part of the knowledge base for forward planning and prevention, namely, the registry, depends on being able to interact with patients through our regional cancer centres. We began to feel that we were maybe starting to lose some contact with the community doctors and perhaps lose some important pieces of information.

We do have some community contacts. We have 21 visiting consultative clinics in the province and Princess Margaret Hospital has seven. Princess Margaret Hospital and ourselves really both became aware of the costs and the loss of information and, without intending to impute any incompetence, we also started to get concerned with some of these drugs which are so costly and can be so toxic that we were going to need a mechanism to make sure that they were used wisely, whether it was through the continuing medical education route or not.

We felt this would be a high priority for our upcoming provincial role study, to examine our interaction with community physicians, particularly with respect to chemotherapy, but also with respect to other issues. With some help from the society we piloted certain interactions that might be applicable in Ontario.

We are cognizant that in Manitoba there is a very successful outreach, if you will, an interaction between the principal cancer centre in Winnipeg and remote centres in the northern part of the province. We are also cognizant of the fact that in British Columbia they are piloting an interaction between the cancer agency and 12 different regions of the province with respect to cancer management and also with respect to chemotherapy. There is an educational component to it and there is a fiscal component to it.

So we have been piloting some files in this province between Kingston and Belleville, between Hamilton and Cambridge, between the Princess Margaret Hospital and Sudbury and the Toronto Bayview clinic at Sunnybrook with Orillia and Newmarket. We are trying to feel our way and get some position to bring forward to the consultants who are going to do the role study about how optimally we can interact with the community physician. The aim would be to contain costs, the second aim would be to obtain information on cancer patients and the third aim would be the hope that they, as agents, would be used in the best possible fashion by the community physician.

11:30 a.m.

It is a delicate issue because within the profession we do not want to be perceived as telling other people who are fully qualified what to do. We would like to work with them and have a two-way street where they take part in our policy management decision process so that they have some input into it and then they maintain a continuing link with us in pursuing what we have commonly agreed to be a quality, if you will, or state-of-the-art management policy for a particular type of cancer in a particular type of patient.

It is one of real concern. It is an evolving one, and I hope a year from now, after the provincial role study has been accomplished, we will have our position a bit more focused on what is a practical and cost-effective way of addressing this issue.

Mr. Breagh: Can I just explore one other aspect of that? One of the things which has concerned me for some time as a layperson, is that when I want to find out--as Health critic, I used to get this all the time because everything, it appears, is carcinogenic. There is absolutely nothing that I ever could find that was not a cause of cancer. I used to get requests from people working in factories, or people would call up about a new drug, and I would try my best to find out what the latest research on that drug was.

I found it a particularly frustrating task. For some dumb reason, when I assumed that role, I thought this ought to be easy. There are lots of institutions like yours around. There are governments spending money all over North America. We have telephone lines and we will just call these folks up and find out what this drug is and what it does. It turns out it is damned near impossible to find that out. One thing that amazed me was that in Canada it is basically a paper exercise. People read information, in many cases provided to them by the people manufacturing new drugs, and that is the basis upon which a drug gets approved or not approved in Canada.

In the United States they have a unique system. They use that system as well, but generally they tend to sell the drug in the Third World or give it away for a few years to see how many people it kills and then they come back before the American Congress and argue it out about whether or not it was a safe drug or not.

Can you or should you be doing something which would improve that process so that a physician or a layperson who wanted to find out about the use of a particular drug could get a reasonable opinion provided, and where there is a split opinion in the medical community--I know you would be reluctant to do this--could we find some means of getting a better process in place in Canada?

Dr. Meakin: That is a continuing problem. The paper disclosure, as you know, is the prerogative of the federal government, but it is a corollary of our concern about the optimal use of these agents I was just citing.

It is very difficult practically to get doctors to agree on a policy of management, as my colleague Dr. Hryniuk can attest. He has been chairing a committee which has been addressing the issue that you raised, namely, to develop a general position on the optimal use of drugs for a given type of cancer. There is a lot of variable opinion. But we are not going to be deterred by this. I think we will continue the process, perhaps in a different vein, utilizing some of the experiences of Manitoba and British Columbia.

The cancer treatment field is changing so quickly that one would be reluctant to develop a cookbook for all the doctors in Ontario for the fear that they would not perhaps get the next edition of the cookbook and so what is pertinent and proper this year may be inappropriate next year.

I think your point is very well taken. It is going to take a lot of work through a variety of mechanisms, through the regional committee that I hope we may set up, through our outreach programs. I think it is going to take a lot more in terms of continuing medical education of which we do some but perhaps not enough.

If I may suggest, Mr. Chairman, my colleague Dr. Hryniuk might wish to amplify on that issue for Mr. Breaugh.

Dr. Hryniuk: I think the issue has other aspects to it. The issue in contention here is that this has the potential for disrupting the delivery of all cancer services, and I think that is an important issue that we have to remember is in the background.

I think some information may be of interest and use to this discussion. I apologize for the busyness of the slide--it was not designed for this morning--but bear with me and look at the colours. The number of significant events in terms of the issue here, chemotherapy, is shown on a logarithmic scale versus calendar years.

What I would like to draw to your attention is that the first effective drugs, shown in green as individual three-letter words here, were discovered starting in 1942 and they paraded steadily across the scene between then and the next 42 years.

The next event that occurred was the recognition that one or two of these were effective in various malignant diseases and, as shown in red, could cure them and, in blue, that some of these drugs put together in combinations could do things that individual drugs could not do alone.

As a consequence of that discovery, the list of red items, the diseases that could be cured with chemotherapy, rapidly rose. Then came the discovery that some of these drugs, either individually or in combination, used after surgery or radiation, could effect cures or long-term survivorship, if you wish.

As you can see, that list at the rate at which it is accumulating is going to continue to accumulate rapidly.

I think the whole community, the cancer foundations of the country and the medical profession are concerned with optimal delivery of this.

You will recognize that these are chemicals and that they rely upon their effectiveness on a very narrow margin of safety between killing the cancer cell and not killing the normal cells. In fact, they do kill normal cells. We try to control the mayhem they produce. They have side effects, significant and serious, and sometimes lethal side effects. So they have to be given under strict control and supervision by somebody who knows what he is doing and knows how they should be put together and for what diseases, and what diseases not to treat.

Not apparent to you is that some of the major diseases we discussed earlier are not on this list--colo-rectal cancer, lung cancer and so on--and they must not be used for those diseases except in experimental and carefully controlled situations. That means close to the centre, with expert supervision, but it means the patients who have side effects have to travel back and forth to the centres to get this kind of treatment.

As an example of work load at a centre, the work loads rose, as Dr. Meakin alluded to, in the early 1970s. Here is the number of chemotherapy treatments given at the Manitoba Cancer Research and Treatment Foundation, which is where I got embroiled in this problem years ago, which suddenly shot up as a consequence of the recognition of the impact of multiple drug chemotherapy treatments--not just single drugs but multiple drugs.

We had to contend with how to deliver these treatments to patients in the Winnipeg area. I will come to the Hamilton area in a second. The green dotted line shows the postage-stamp province outlines of Manitoba. Not shown are the two centres another 300 or 400 miles north and the centres of The Pas, Dauphin and Brandon.

To deliver cancer chemotherapy treatments to these patients under these conditions from an area like Winnipeg--there were no experts in the delivery--we had to set up an intricate co-operative outreach system with the practising profession to serve the needs of those people. That was in the early 1970s.

Now we have these increasingly complicated treatments, and patients have to come back once a week and sometimes twice a week. Now, if we substitute Hamilton for this dark blob of Winnipeg and the purple outline, the Niagara Peninsula, with the dotted line indicating the area that we are responsible for, even once and twice a week treatments from relatively small distances now have to be controlled by the centre physicians. But the patients are sick and how do you do that? The physicians in the communities are very sensitive to this.

I do not think we are at risk yet of untrammelled and uncontrolled chemotherapy, but you will understand that we have a lot of work to do--a lot of communication, money that has to be spent, centres that have to be identified--before we can optimize the delivery of these treatments. As I showed in the first slide, they keep shifting and changing all the time. Our hope is that

with the co-operation of the physicians we can develop an outreach program either within a city or with other centres based on telephone and computer exchange of information so that we can control that issue, so that we do not allow to happen what you would predict would happen.

11:40 a.m.

Mr. Breaugh: There were a couple of other things out of your statement this morning that did go over to some degree the registry concept in a technical way which, quite frankly, from my experience is one of the things that are desperately needed. The irony is of course that the mechanics and knowledge are here, it just has not been done so that we cannot really track that information.

Would it be your position in suggesting that the upgrading of the registry be done that it be made, for example--this is where the trick will come, I suppose--a kind of fully funded, neutral agency for research that might be applicable to things like industrial safety? Right now we have a health and safety law on the books which in many cases is very difficult to utilize because the information is not available. We constantly get caught in the whiplash of conflicting medical opinion and there is frankly not much of a way to sort it out, or there is no medical opinion on the matter at all because there is no information.

One of the things that I would hope for from a beefed-up cancer registry is that there would become available to people throughout the province and the country that kind of information that is not available now, so that when one goes to a workers' compensation board we do not have ethereal arguments of conflicting medical opinion.

We have the basis for finding the information now. For example, when one looks at the rate of cancer among workers in a particular work place, we all know that the rate of cancer is very high and we all know that the work place is somehow related to it. But the official medical opinion almost always comes down to the idea that the guys were all smoking in that plant and the work place had not much to do with it so that is not compensable.

We have a high rate of frustration building in the trade union community, for example, where they are just now beginning to get in place people who have a little bit of expertise and whose job it is now to try to promote industrial safety, particularly in the use of chemicals in the work place, the condition of the air and a lot of things we did even think about maybe 10 or 15 years ago.

Do you see something like this cancer registry forming a component role in trying to resolve some of those very difficult problems?

Mr. Meighen: If I could answer generally and perhaps turn it over to Dr. Clarke, very definitely. As far as the question of organizing and presenting the conflicting medical opinions is concerned, I really have no answer and I do not know whether you can do that or not. I suppose Dr. Clarke can answer that.

In terms of marshalling the information, the data, I see no reason why that cannot be done. I believe Dr. Clarke alluded to that earlier in her remarks. If we have the hardware and we program it properly, we can zero in on a particular problem--Inco, for example, or a particular geographic area. We will have the capabilities to distinguish and separate the data that come in so that there are not repetitions as Dr. Clarke mentioned at the outset of her remarks.

I do not think I can say much more other than that the updating of the cancer registry, as far as I am concerned, is very much of a priority. You have heard of the progress we have made. We are hoping for some financial assistance from the Canadian Cancer Society in this area. We have not had a definite response yet. My own feeling is that one way or the other, Mr. Breaugh, we are going to find the money to go ahead, because if we do not have that data, we are stumbling around in the dark.

Perhaps I could ask Dr. Clarke to amplify, if I may, Mr. Chairman.

Dr. Clarke: I wish the cancer registry could be all things to all people. I think it is a data base; we will be able to have information on age and sex--we have information on individuals, but we will know their age, their sex and where they live. On those patients who are seen at the treatment centres we are collecting information on where they work now, what type of industry it is and two other questions. Therefore, on 54 per cent of the patients as of 1982 we are collecting that type of baseline information.

I am not sure whether every patient who is admitted to a hospital for cancer but who does not need to be treated at a regional treatment centre is necessarily going to give his occupation in a way that we could answer the question that, I agree, the trade unions are always anxious to know.

I see the registry answering the question, "Is such and such an occupation a hazard?" That is something you identify, the people who are exposed to that particular hazard, and then you use the registry to answer that question. I think you would make the whole registry too big and too unwieldy if you tried to collect the detailed occupational history that you need to know on everybody to answer these types of workers' compensation questions.

Mr. Breaugh: But you would certainly be providing an important component in the mix of things. One of the things, from my point of view at any rate, which is particularly unfair now is that it is a larger question now, not involving just an individual who is applying for a little compensation money, but very often between major trade union groups and major employers.

Until now you have had the rather unfair situation that on one side of the issue will be physicians, very learned in their practice, appearing before a panel of the Workers' Compensation Board, or perhaps they are employees of the Workers' Compensation Board and they speak well on the topic; they understand the process and they have an excellent vocabulary. On the other side

of the coin, arguing the other side of the argument, so to speak, is a lay person who is relating in an anecdotal way what happened to the people who worked around him or her over a long period of time. There is not much of a way to find a reasonable resolution to whether or not there was a dangerous substance used in the work place.

Although it is a little more sophisticated than that now, there still is a mad scramble for information from around the world and we are attempting to set up what would be the different components so that you could discuss and decide the particular issue on the basis of fact a little more often than you would discuss it on the basis of opinion. Such a registry as you are suggesting here will be at least one place to turn to for that kind of data.

Dr. Clarke: Yes, and there is no question that the occupational health and safety program at McMaster works very closely with both industry and unions to look at some of the major issues. The problem is that it all takes money. In other words, to first of all identify the workers and what chemicals they were exposed to and then link those to the cancer patients takes money. If you are aware of the program at McMaster, they have a number of studies. I am not sure, but I think they are funded partly by the Ministry of Environment and partly by the Ministry of Labour.

The registry is really a resource for all these different organizations, and we are repeatedly asked to provide the type of information, not specifically as to which chemical but, "Can you tell us which of these workers have cancer?"

Mr. Breaugh: One other area that you have laid out for us here is the process of--I do not know whether it is still a catch word or not, but it was a little while ago--"the rationalization of health care" and the use of equipment, drugs, facilities, human resources and other resources.

From what we have in terms of research and your statements this morning, it would appear that you feel fairly good about the way in which these resources have been allocated by the foundation and the connections that you have set up in Ontario.

At least in my experience, particularly in the health field, there always is a great deal of argument over how much money is coming in the front door to this clinic or this hospital. I recall great arguments about rationalization internally in the hospital. One of the problems they ran into, particularly in urban areas, was that what appears to the ordinary person walking by in the street as the Oshawa General Hospital turns out to be a building that is much more than that. It has several different components to it, many of which do not have any relationship with one another. There will be this kind of clinic on one floor and another clinic run by somebody else on another floor.

11:50 a.m.

I suppose in seven communities anyway you have clinics or things that are there and the difficulty is that there would be a

chance to rationalize internally, except they do not have any relationship with one another. They share the same building and some times they share some facilities, but there is no need for them to talk to one another and it poses some problems. Are you reasonably happy that the structure of the clinics, for example in Ontario, is such that we are not running into a lot of those problems and that you have rationalized the use of equipment and personnel to its optimum?

Mr. Meighen: I will ask Dr. Meakin to respond to that if I may, Mr. Breaugh. The quick and short answer is, no. Obviously, it has not been rationalized to the optimum, but that probably is impossible and maybe the optimum will shift from time to time depending on the priorities.

We think that having clinics attached to host hospitals is a good practice for the reasons you cited. They do come into contact with people involved in other disciplines within the hospital. They do come into contact, being regional, when it is with the community. We do not bring everybody to one place, or attempt to. The marrying, as I see it, of regional involvement and expertise with--on the one side, you could say, "Oh, gosh, didn't we put all our eggs into one, two or three baskets?" Does bigness mean expertise? I am not sure it does. Hence, for a variety of reasons, it seems to me at least that the clinic system makes sense.

There may be some overlapping, but it makes sense. I figure it is a reasonable rationalization. I do not think everybody is trying to do the same thing in the clinics, and the clinic directors are here; Dr. Maus or Dr. Hryniuk could talk to that. Yet at the same time I suppose there is competition. One clinic is trying to specialize in one area a little bit and another clinic is trying to specialize in another area a little bit and do its best.

We think that is probably helpful, but we think the linkage with the hospital is providing that interaction to which, as I understand it, you alluded and doing it reasonably well. Any suggestions for improvement would be gratefully received. Perhaps Dr. Meakin can carry on from there.

Dr. Meakin We take pride in working within the milieu of a legacy of, I think, a very wise decision made back in the 1930s and 1940s in this province; namely, the regionalization of very expensive equipment.

In this province today, radiotherapy is deliverable now in seven of our clinics and the eighth centre being the Princess Margaret Hospital. While I do not have good quality data, I would hazard a guess that it is being delivered in a much more cost-effective fashion than in the United States, where it is primarily entrepreneurial. I do not have good data, but I know, for instance, the remuneration differential between what we can remunerate our physicians and what is possible in private practice in radiotherapy in the United States.

I think the province is benefiting from the regionalization and rationalization of radiotherapy going back into the 1940s,

well beyond perhaps when the term was coined, when it seemed a pragmatic and reasonable or sensible thing to do.

Another cost-effective idea was to attach these clinics to hospitals at somewhat of an arm's-length arrangement so they did not become swallowed up by the hospital and become part of the local tensions that might exist between different hospitals within a community but be an identifiable add-on to that community.

We have an arrangement with our host hospitals. We build our clinics with help from the government and the society, usually on hospital land, the clinic is deeded to the hospital and we lease it back on a long-term basis. We enter into a form of marriage over a long period of time.

We agree to do certain things and they agree to do certain things. These are modified from time to time, but basically we look to the host hospital for beds, for diagnostic support services and a variety of activities that would not make sense to us to reduplicate within that centre. In other words, we try to maximize what is there within the host hospital.

In return, we provide the host hospital with a focus of tertiary care interest; namely, oncology. First of all, it is radiotherapy and then with chemotherapy, so that it provides the hospital the opportunity to give oncology a high profile within its overall activity. I think it has worked out reasonably well.

We referred a little earlier to some of the early tensions that can develop in any such long-term arrangement. There are problems. The hospital is funded, and we are funded, primarily by the ministry. There is a continual change in the interface between the two of us. For instance, I will take an example in the field of chemotherapy. Chemotherapy, to a very large extent, was done as an inpatient mode in years gone by and it became part of the global budget for hospitals. Now those patients, through day care facilities and our clinics, are moving into a day care mode. The cost is now accruing to us but there is not necessarily a fiscal transfer. That has not created a major problem. It is an example to you of the changing interface between the two institutions which I think we have (inaudible) that it remains a healthy one.

A new dimension in terms of rationalization that we want to study in the role study is the district health councils. As we said, we have had quite a happy relationship with them, but we would like to define what do we do if we disagree with the district health council since we have a provincial mandate. What do we do if we agree about an issue that should be proposed and put forward? We would like to define on what issues should we regularly consult each other so that the planning is done in an effective fashion, because we can bring to any decision a provincial perspective which can be useful to the district health council which, in turn, can bring to us a regional perspective that we might miss.

I hope we will be able to sort that out. Obviously, one example is the area of high-tech imaging, the CT scanner being an example. To be candid, we would have to say that if we had

hindsight we might have suggested the location of certain CT scanners in some communities in a different place. But that is history. We would like to take a proactive, prospective role, if you will, in where such devices are sited in a community because the oncological need is now becoming very considerable. One needs it not just for diagnosis, but one needs such facilities to do state of the art radiotherapy planning.

We have a new interest that we might not have had perhaps 10 years ago in that type of field, and we obviously are going to want to interact with the district health councils in a positive fashion in coming to rational recommendations.

Mr. Eichmanis: I am not familiar with some of the terms that you use, and I am not sure that all of the members understand them; for example, "oncologist" or "oncology." Could you perhaps define those terms for us please?

Dr. Meakin: Oncology is basically the study of cancer, of uncontrolled growth. An oncologist is somebody who takes an interest in the field of cancer. An experimental oncologist is usually a laboratory investigator. A radiation oncologist--our director from Windsor, Dr. Maus--used to be called a radiotherapist. A therapist implied just treatment concerns. Radiation oncology implies a concern about the totality of it, the biology, the understanding, the diagnosis. Then there is the medical oncologist. One could interchange oncology and cancer.

12 noon

Mr. Breaugh: A couple of other things have always been of interest to me. One is that, particularly in the treatment of cancer, there is a growing group out there that rejects almost totally what we would refer to as traditional medical practices in the treatment of cancer. I find it a confusing argument. I am sympathetic and understand that very often they are faced with a rather hopeless situation and traditional medicine has not worked. I think I would feel more comfortable carrying the banner for traditional medicine if we had real solutions, if everybody were doing magnificent work, if there were no mysteries to be solved and the rates of solving cancer problems were higher than they are.

Does the cancer foundation pay any attention to any of this? This is rather an august collection of people from the established medical profession here. There are no people selling little herbs and flowers outside, wandering around and saying, "Here is an alternative care treatment." But I always have great difficulty in judging whether there is any validity at all in what I would guess could be loosely called the alternative approaches to treating cancer. Do you put any stock in any of those alternatives that have been presented? Does the foundation monitor or analyse them in any way?

Mr. Meighen: When we are pressed, Mr. Breaugh, is the answer, but I think Dr. Meakin should answer that. I am thinking of a fairly recent incident of the girl in Sudbury where, at the request of the ministry, my recollection is that two eminent physicians were dispatched to Houston to investigate and they

reported back. That did not flow through the foundation. No request was made to us.

In terms of ongoing monitoring, I do not think we do in any formal way, but perhaps Dr. Meakin could amplify.

Dr. Meakin: Mr. Chairman, having reached our 40th year since the act was passed in 1943, two of our former--

Mr. J. A. Taylor: That was a good year.

Dr. Meakin: Yes. That is right.

We are now in the process of trying to write up a history. It is very interesting going back into the late 1930s and 1940s, but the problem of unconventional remedies was very much with society then as it is today. A number of occurrences have happened through the years in which unconventional remedies have been promoted in this province.

As far as the foundation is concerned, it becomes aware of these events and tries to develop an ad hoc position, depending on what the circumstances are. We do not have a formal mechanism to ferret out the existence of these remedies or to examine them in a systematic fashion. I suppose you might say in the vernacular that we hear about it, find out about it and play it by ear. In doing so, we are cognizant of information coming in through the society, of information coming in through the National Cancer Institute of Canada, and we have mechanisms for keeping in touch with the National Cancer Institute of the United States and NIH.

If you would like me to address any of the particular events in recent history, I would be happy to do so, but the answer to your question is that we try to be pragmatic, reasonable and sensible about it. Where it might be amenable to an appropriate clinical trial, we have been prepared, in co-operation with the Ministry of Health, to put it to the test if the promoters of the remedy are willing to meet certain criteria; namely: (1) that they must have demonstrated a lack of toxicity in animals, (2) that they are prepared to give us a reasonable understanding of the nature of the substance being investigated and (3) that they will agree to a design trial that has a reasonable chance of coming out with a positive answer. Of course, in addition to that, we would require the usual ethical requirements that are now really adjudicated by the ethical committees on human experimentation at the five medical schools.

That is roughly how we would approach it. If somebody wanted us to take it seriously, we would say: "Okay. With those conditions, we will be glad to look into it."

Mr. Breaugh: To put this politely, you do not monitor any of those approaches in what I would call a serious manner.

Dr. Meakin: No, sir, we do not, in that the legislative responsibility for that rests with the food or drug directorate in Ottawa. I omitted one requirement for us to get involved, which is that they would agree, if you will, since they have the jurisdiction in this area, to this agent being tried out experimentally on human beings.

Mr. J. A. Taylor: May I have just a supplementary for clarity? Does Ottawa then, through the food and drug administration, carry on a parallel or concurrent testing with the originator of some magical cure? Are you suggesting that if you did it there would be some duplication or overlap of the function of the people in Ottawa with the drug administration?

Dr. Meakin: Mr. Chairman, my answer to that is before a new agent or particularly new drugs can be tested on human beings in this country, following conventional practice and, I believe, legislative requirements--though I am not an expert in the area--they must be issued by the food or drug directorate of the health protection branch with what is called an IND, an investigation of a new drug number and licence. In order to satisfy the food and drug directorates, they should have that licence, if you will, for that purpose. They must present to them certain pieces of information which would lead the directorates to believe that this is not an unreasonable agent to test. Obviously, if a drug had the properties of cyanide or carbolic acid, it would not get an IND. They usually have to present some biological data and some data on safety in animals in order to get such a licence to proceed with testing it.

Mr. J. A. Taylor: I surmise that what Mr. Breaugh is getting at--and correct me if I am wrong--is that he is asking you what are you doing in terms of following up announcements of some cure for a certain form of cancer. From what I have heard today and understand, maybe a part of the problem is we do not look at cancer in generic terms, and it is really a form of generic term. There may be a breakthrough in terms of leukemia or some other form of cancer, but we cannot talk about that as a magical cure for all forms of cancer. So if somebody says he has got a cure for cancer, it may be a limited cure in terms of a certain type of cancer, from what I perceive. I may be wrong in that. I suspect there may be some error in thinking if we are looking for a single cure for all forms of cancer.

At the same time, in terms of your progress in the field, there may be--and I surmise again that there is progress in terms of the different types of cancer that exist, but you cannot talk in generic terms. Is that correct?

Dr. Meakin: Yes.

Mr. J. A. Taylor: I think what Mr. Breaugh is getting

at, and what I would like to clarify, is what are you doing as an agency in terms of following up on announcements of cures for different types of cancer? I hear you saying, "Look, that is not our function."

Dr. Meakin: Do you want a breakdown?

Mr. J. A. Taylor: You have a federal agency that does that. What I was asking is whether the federal agency does that on its own initiative, or whether it awaits an application for use in this country. I gather by what you have said, and just for

clarity, is that somebody applies, they look at it and if it looks like it is worth looking into, then they go through some form of testing. Is that the pattern?

Dr. Meakin: Yes, as far as the federal agencies are concerned, people must come to them, but as far as our being involved, our scientists and our commissions are continually aware of what is happening elsewhere in the world. If a new agent becomes available that looks promising and there is a legitimate argument, I would think Dr. Hryniuk and Dr. Maus can attest that the foods and drugs directorates have been most co-operative with established treatment centres in trying out agents at a very early point. In fact, one of the members of our staff at the Kingston clinic is now head of the National Cancer Institute clinical trial program on new drugs--he basically works for us and works for them.

Part of that program is positive action in getting involved in the testing of new drugs that are coming, for instance, out of the national institutes of health in the United States. So just by the very nature of our organization being involved in research, education and treatment, it is part of our everyday activity to become aware of and promote anything that is new and promising.

The original conversation with Mr. Breaugh had to do partly with unproven remedies. Perhaps what I was speaking to was primarily related to them. We do not have an official tracking mechanism, but our staff is continually aware, and I think the antineoplaston story in Houston is a recent example of that. We are in contact with investigators of the National Cancer Institute of Health and other investigators in Texas on an intermittent basis as to whether or not some of the new laboratory experiments going on with the antineoplastons have any merit at all. We are still keeping an open mind.

You are probably aware of the earlier problem with the material called Laetrile that was promoted, unfortunately, by a former Canadian and his colleagues in Tijuana, Mexico. That caused us a lot of grief for a long time because we would have patients who would insist on mortgaging their houses and going to Tijuana for Laetrile and having the unfortunate experience of meeting the cash register before they met the doctor and indeed experienced (inaudible) en route.

We were not able to put that agent to a definitive test here in Ontario because to do it is a very costly undertaking, but I think, thanks to a group in the United States, it has been satisfactorily tested now and, as most people expected, its value is most dubious.

I could go on about other examples within this province, such as Essiac, a recent unproven remedy, that we were prepared in co-operation with the Ministry of Health to test, but the promoters of that agent declined to meet some of the conditions we felt would be required to do an ethical scientific examination of the value of that material.

Dr. Hryniuk: Mr. Chairman, I wonder if I can add a dimension to that answer that might satisfy Mr. Breaugh. As my son said, the truth is what works, and these agents do not work, or if they do, they have not been properly evaluated and tested and subjected to the kind of scrutiny that one expects to be able to judge fairly on whether an agent is working or not. It is somebody who is sort of at the sharp end of the spear having to relate to the public and patients and trying to determine as reports come in, and I think this is what you are asking.

Who can interpret a report and where can a person get a bona fide judgement on a report, whether it is in the press or on the radio? Basically, the patients who are referred to the clinics can get this information from the physicians, and the way we evaluate the reports, wherever they come from, is whether the reports have been properly published, whether the studies are valuable and peer reviewed and, of course, where they come from and who did the work.

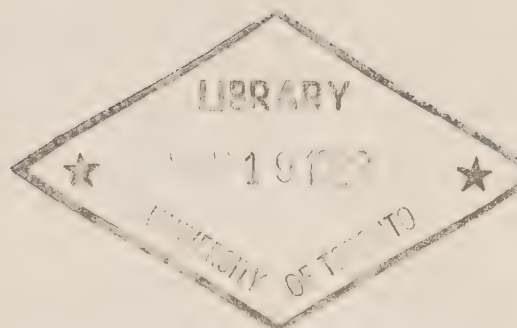
You can generally tell an unproven from a proven remedy by those criteria. For example, a published report in a medical journal will be available before a public announcement is made, and the other thing we always keep in mind is that there is a profit motive attached to these unproven remedies which, if you dig hard enough, you find at the end of it every time.

Our major concern is for our patients, not for whom we cannot do anything more in the way of curative or effective palliative treatment but for the patients who bail out from effective treatments to try these unproven remedies and when they come back the disease is further advanced and now they are in an irretrievable state. So we are always involved with trying to evaluate these and do the best we can by our patients. That may sound self-serving, but we have to be there.

Mr. Chairman: Thank you. There are other questions, and Mr. Breaugh is not finished. Perhaps this is an appropriate time to break for lunch. We will come back at two o'clock.

The committee recessed at 12:17 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:

ONTARIO CANCER TREATMENT AND RESEARCH FOUNDATION

WEDNESDAY, SEPTEMBER 14, 1983

Afternoon sitting

STATISTICS COMMITTEE ON PR. GENERAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Bresnahan, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
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Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Clerk pro tem: Carrozza, F.

Staff: Eichmanis, J., Researcher

Witnesses:

From the Ontario Cancer Treatment and Research Foundation:
Clarke, Dr. E. A., Head, Division of Epidemiology and Biostatistics
Gray, R. D., Secretary-Treasurer
Hryniuk, Dr. W. M., Director, Ontario Cancer Foundation, Hamilton
Clinic
Maus, Dr. J. H., Director, Ontario Cancer Foundation, Windsor
Clinic
Meakin, Dr. J. W., Executive Director
Meighen, M. A., Chairman
Stevens, R. W., Chairman, Ontario Cancer Institute

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, September 14, 1966

The committee resumed at 2:08 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO CANCER TREATMENT AND RESEARCH FOUNDATION
(continued)

Mr. Chairman: Gentlemen, seeing a quorum in place, perhaps we can continue with Mr. Breaugh's questions.

Mr. Breaugh: I have one last shot on the area we were discussing prior to the break. There is a process in place and you can kind of follow the sequence of events in terms of other forms of treatment than the two which you predominantly use, which are some kind of a drug program or a combination of drug programs and surgery. There is a growing group--I guess growing because many people are not happy with the current practices in the treatment of cancer--a kind of holistic school of thought, I guess, would be a way to describe it. Is there much in the way of work being done by your foundation to recognize that school of thought or is it in the same status as the Tijuana and Texas clinics and all of that?

Dr. Meakin: Mr. Chairman, that is a very difficult question because patients with cancer very often get desperate because they are not sure that they are getting the right treatment. They see themselves going downhill and they want to do something differently. There are many publications and pronouncements about a variety of nonsurgical, nonradiotherapeutic, nondrug types of treatment. They vary all the way from a variety of diets to unusual forms of medicine, partly rooted in the old school of homoeopathy.

As my colleague Dr. Hryniuk indicated a little earlier, one of the dangers is that they may abandon the approved forms of remedy for these unusual orthodox approaches, or they may endanger their own family's economic welfare by becoming involved in significant expenditures. It sometimes takes a long period of time to dissuade them, or at least put the facts before them.

In answer to your question, we do not have a conventional program about this, but one of the things we want to examine in our upcoming provincial role studies is what we call the psychosocial aspects of cancer patients, right from diagnosis through, if necessary, to palliative terminal care. Patients are apprehensive of the diagnosis with the treatment, and then it recurs during their dying phase.

There are a lot of views about how this is best handled. The society has several programs, such as Coping with Cancer and Cancer Mount. There are also opinions about the role of the clergyman, the clinical psychologist, the psychiatrist and the

public health nurse. We would like to try to identify a position that is a pragmatic, useful position for our regional treatment centres to take in this psychosocial support of patients, maximizing what exists in the community.

In some communities, for example, Windsor, they have the remarkable community resource there for dealing with the palliative care of patients. It is highly promoted by the citizens of the city and supported almost exclusively by the citizens of Windsor. We do not want to duplicate anything society is doing or a municipality is doing. We want to develop a technique for handling those concerns of patients through supporting them in an appropriate psychological fashion and informational fashion.

I do not know whether I have answered your question fully.

Mr. Breaugh: The reason I am concerned a little bit is that in psychiatric care where--not an exact parallel runs, but a similar situation is at work--it is very often admitted by people working in the field that they do not know the cause of the problem and they do not know the cure, and around the fringe of it are almost bandit forms of medicine that are not recognized and not totally approved. In psychiatric care you can see that more and more things which were thought to be ridiculous not too many years ago are taking another shape and form now, are now being given a little bit of recognition, being studied and monitored in a more careful manner. In other words, they are not being dismissed out of hand because conventional wisdom says that is not the way we do it.

I am just wondering in the field of studying cancer in all of its forms and all of the different kinds of treatments if there appears to be more recognition that there are different factors to it than just drugs and surgery, because there are a whole lot of other things involved. I am just wondering how widespread that net is becoming. Is it moving out into other nonconventional treatments? Very slowly, I guess would be the answer.

Dr. Meakin: Yes, I think we have our eyes open about it. I will give you an example of something that is undergoing testing, and my colleague Dr. Maus might want to speak to it.

Increasing the heat of the body has been used through the centuries for a treatment of a variety of diseases all the way from malaria to syphilis, etc. There is a body of opinion now that this may play an important role in the management of cancer in complementing the effect of radiotherapy. It has to be done very carefully because one can wreak great havoc in a patient's tissue by the combination of heat and radiotherapy.

Another example is making use of some ancient observations that if you pre-treat cancer patients with certain pigments that are part of the molecule of our hemoglobin called protoporphyrins that they are taken up differentially by cancer cells. By being taken up differentially by the cancer cell, the cancer cell becomes photosensitive when you shine ordinary light. This is coming out of the mists of anecdote that is, now like hypothermia,

getting serious scientific examination and may have very significant value in the treatment of cancer patients. Just as some people are more sensitive to sunlight and burn more easily or tan more easily, so there are methodologies now that are developing to make it the cancer cell, because it takes up this pigment selectively, more sensitively.

I defer perhaps to Dr. Maus since he is more knowledgeable in the area of radiotherapy because some of these fringe developments are starting to develop in association with that modality in management.

Dr. Maus: I have no direct experience with the field of hypothermia. I believe there are experiments under way in this city, possibly in the Toronto General Hospital, where hypothermia has been employed in the treatment of certain localized cancers. There is also an experiment under way in Henry Ford Hospital in Detroit for some time and I think it is ongoing.

The experiment regarding the use of hematoporphyrin is part of our Kingston clinic's work. It is a research project there and is being used for treating superficial skin malignancies and recurrences of tumours such as cancer of the breast and the chest wall.

With regard to Mr. Breaugh's question regarding the holistic approach to medicine, we have a group of people in Windsor who are interested in this approach. As a matter of fact, one of the very active people is one of our former ministers in Riverside United Church. I have sat in with them at one of the their meetings. I do not believe it has got off the ground just yet. The approach is not only psychosocial but it is also in the sense of religious reinforcement to the problems of the patient in adjusting to his illness.

What we call the hospice in Windsor is patterned after Dame Cecily Saunders' experiment in England with the difference that we do not have allocated hospital beds in the Metropolitan General Hospital. It is a community service that deals not only with hospital patients, wherever they may be, but also in the home. There are visiting nurses who attend patients in those two separate entities.

It is completely sponsored by the community. There is no government funding whatsoever. It has been ongoing now for about three years. They have a budget in the range of about \$150,000 which has been raised by the community and it is very supportive. There is a bit of conflict between some of the aims and objects of the cancer society with regard to supporting patients, but I think these can be resolved. That is what is going on in Windsor.

Mr. Chairman: Do you have anything to add?

Dr. Hryniuk: There is an aspect of this which I think Mr. Breaugh is looking for that I thought I might add to. My view of holistic medicine is basically that individuals have a disease because there is a sort of imbalance between them and their lives.

Psychic and physical stress has thrown them out of balance, and this is the ground where disease takes hold. I think you are saying, "Have we paid any attention to the above as opposed to dealing with the facts after it has occurred?"

Mr. Breaugh: Yes.

Dr. Hryniuk: It depends on how you look at it and your perspective. In fact, we have been talking about that today, the idea that physical stress, such as diet, lack of exercise, smoking, is the background against which cancer develops is part of the holistic medical approach. I think it is valid. So if we use different words, we are doing it.

If you look at the effect of emotional stress, we have recognized for a long time that emotional stress is the predecessor to cancer, and we are doing investigations into this. Moreover, when we get the patients, we are looking at how, if these factors led to the event, can we neutralize the operation of these factors, particularly in the area of psychosocial support of the patient through the nurses or the doctors or psychiatric or other counselling service for the patient, and for the relatives of the patient who are also now at risk and have stress and may die of heart attacks or a second attack of cancer. In fact, we are doing it but we do not call it that.

Mr. Breaugh: The reason I pursue that a little bit is I happened to be involved on a couple of occasions in discussions where it was like two armed camps. There was conventional medicine on one side and another group by a variety of names on the other, both calling one another names and neither party attempting to assess whether there was anything valid in the other person's point of view at all. It concerned me somewhat that in a lot of what I am familiar with as being conventional medicine there is very much an establishment. If you do not march to the establishment's tune, you do not march.

It seems to me that is a bit of a shame and that there may be some validity in some rebel's cause out there to which somebody ought to pay some attention. I am aware it is not the easiest thing in the world for someone with a nonconventional idea in the field of medicine to get that idea accepted. It does happen, but it is not easy.

2:20 p.m.

Sometimes I am afraid we do miss some knowledge just because of attitudes. I am not sure that is true all the time, and more and more I see what used to be called the medical establishment loosening up a little bit. It is very tragic when you are dealing particularly with a family or patient with cancer where they have gone the conventional route and the results are not what everybody expected them to be. That is when you do get into a situation where they are willing to face financial ruin and try some very bizarre techniques because they feel, at that point, they have nothing to lose. It seems to me that great tragedies evolve there. In fact, I know they do.

There is one other point I want to pursue with you. In our research on the foundation--

Mr. Watson: Somebody was just going to comment there.

Dr. Maus: If I may speak to some of these concerns, I do not think that in Windsor there is a feeling of opposition to these influences, that I can read. As a matter of fact, a number of physicians are involved in this holistic medical group. I say simply that it has not got off the ground, partly because of the question of funding.

I come back to the issue of perhaps payment for the services of a psychologist or a psychiatrist--not so much a psychiatrist, but at least a psychologist. There is no vehicle I know of by which a psychologist's service can be paid by the existing medical plans. A patient is then faced with the cost of supporting that psychologist's charge for his or her services. This has been a bar, as far as I am concerned, with regard to providing this service to our patients. There is a request, there is a demand in some cases by a patient for this sort of additional support, but we have not been able to solve that particular problem.

Mr. Breaugh: In our research here I was unable to determine whether or not you have any direct affiliation with the university. Do you and what is the nature of that?

Dr. Meakin: Yes, Mr. Breaugh, I think we have meaningful ties with the universities of Ontario, particularly the ones with medical schools that we have a natural affiliation with.

I will just very briefly tell you how that is. First of all, we always have on our board somebody who represents either the office of vice-president of health sciences or one of the deans of medicine in Ontario. Second, at the suggestion of an evaluation done on us in 1980, we have developed memoranda of understanding now with two of the medical schools and are in the process of planning or carrying that out with the other three, whereby we have an ongoing liaison activity between the foundation, the clinic and the medical school, and we meet at least annually.

All of our senior radiation colleges, medical colleges and scientists are cross-appointed to the medical school and, indeed, this is a sine qua non of their appointment. We are involved co-operatively with training programs and radiation oncology, medical oncology and summer student programs with each of the five medical schools.

Our career scientists in our clinics said they must have the (inaudible). We have a funding program for supporting research scholars in cancer in the medical schools. We have provided a certain amount of funds to each medical school for continuing medical education so that family doctors can come in to the medical school once a year, and the program is put on in the cancer field.

We have recently instituted with provincial lottery funds that were granted to us a clinical college program in Ontario, the biometry for which is centred at McMaster medical school, but it is linking our five medical schools, the seven clinics, the Ontario Cancer Institute and a number of teaching hospitals in Ontario to carry out clinical files.

We have a few other things in the works. We are re-establishing our old advisory medical board with the health advisory council, which will have representation from the universities on it. We would like to bring our two clinics, which do not have a formal teaching affiliation in Windsor and Thunder Bay, into an affiliated state, and we are just feeling our way in this. Our long-range intention is to bring Thunder Bay into an affiliation with the Hamilton clinic and McMaster to capitalize on the current program of having students do part of the residency experience in Thunder Bay. This is partly to try to attract students at an early age to the opportunities in the north, because it is a chronic recruitment problem for us in that area.

Similarly, we have had in the past some relationship between the Windsor clinic and the London clinic, and I would very much like personally to see that affiliation re-established with a close working relationship between those two clinics, at least in the research and education area if not in the treatment area.

Mr. Breaugh: So you opted then to clarify and formalize relationships with a number of universities and medical schools.

I am not quite sure whether this is the politics of medicine or whether it is public relations or what, but, for example, a place like the Atlanta Centers for Disease Control has taken on a very high profile on a North American basis and seems, at least to a lay person, to be doing excellent work at developing quickly and on a continental scale a very sophisticated form of medicine. Is there anything that would parallel that kind of almost Stalinist, central approach to it in the study of cancer?

Dr. Meakin: Yes, indeed. Within this province the evolution of the system made provision for that very sort of idea. In the very early days the foundation centre in Toronto was in Toronto General Hospital. With the change in the Cancer Act in 1952, there was established in this province a provincial hospital and institute called the Ontario Cancer Institute, in Princess Margaret Hospital. They are a sister organization to us, corporately separate, but we have common funding mechanisms, some of which come through the foundation, with interlocking board membership, interlocking planning committee activities--we are doing a combined role study. I guess in this province the Ontario Cancer Institute has to stand out as the centre wheel of cancer treatment and research development.

There are certain things they can do because of their size that cannot be done at the smaller regional centres. I think one has to identify some of those programs and say something about them, such as the bone marrow transplantation program. A lot of the bone marrow technology that is used worldwide had its roots there many years ago in the late 1950s with the work of (inaudible).

That is not to say that other things cannot be done at the regional centres. Some of the regional centres have developed certain areas of expertise. For instance, the Hamilton clinic has a technology for treating a certain type of skin cancer. It is not treated elsewhere in the province and to a very limited extent elsewhere in Canada, so it functions as a regional resource, or a national resource almost, for that type of cancer.

We also have tried to develop new initiatives where the opportunity existed. I will give you an example. Young men with cancer of the testicle 10 years ago almost uniformly died of it. Now, with very vigorous radiotherapy treatment, chemotherapy treatment, they are being kept alive and, indeed, cured, in so far as one can define cure. If you define it by their ability to marry and want to have children three or four years after their initial treatment, that is a reasonable social definition perhaps of cure. The problem is that some of these men are left sterile from the treatment.

What we have has capitalized on the interest of a surgical researcher in the Wellesley Hospital in Toronto who has got an interest in sperm banking. His interest was derived for other reasons. We capitalized on the expertise and are funding him to a limited extent to provide a provincial resource for the banking of sperm of any males with cancer whose cancer is likely to be cured. We have had this program running now for three years and we have got our first live baby, which is very gratifying to us. It is just about the first time interval after the institution of the program that it is rational to expect that type of outcome, because we would not encourage these young men to father children or attempt to father children unless there was a high likelihood of cure and that they were going to be able to take the responsibility for that child.

2:30 p.m.

That is the type of activity we do get involved with either in our regional centres, Princess Margaret Hospital or elsewhere.

Mr. Breaugh: One final question. It says here that there is becoming a shortage of oncologists and, at least on the surface, it would appear that the old game of finding people interested in an area like this, providing them with initial opportunities and training them, is being borne by Ontario in this case and that at a certain point where the physicians' special training becomes operative, they leave us and go elsewhere. Is that true? Is it still going on?

Dr. Meakin: It is a very complex question, Mr. Breaugh. We have several issues to consider. One is the natural instinct of trained professionals to want to locate in Toronto. Why that is I am not entirely sure, but that is the way it is. It is next easier to recruit them to the teaching centres outside of Toronto: Ottawa, Kingston, Hamilton and London. It is really very difficult to get these people to locate in the north and in a nonteaching clinic such as Windsor, as Dr. Maus will attest.

There are several problems. One is that there are not enough of them being produced, and now I am speaking mainly of radiation oncologists. My own opinion is that there is not enough exposure in the undergraduate years to oncology. We are going to try to repair that, because if you do not trigger a young medical student early enough in his career about a career opportunity, he will not even think about it. Part of it is a hangover from days gone by when everybody had so much pessimism about cancer and one asked the question, why bother going into it as a career? But that is changing. I think there is an opportunity for real career satisfaction. So we have got to get at the students earlier.

The second thing is to retain them. We live on a North American continent where entrepreneurial radiotherapy can command three times the remuneration that we feel it is appropriate to remunerate our staff with, and we try to relate to the geographic full-time people of the five Ontario medical schools what we think is a reasonable benchmark for within the province. But we have the reality of life that south of the border entrepreneurial radiotherapy now is the most rewarding of all the specialties today.

The third thing is that we were for a time threatened, I think, with a cutback in residency training posts. But the Ministry of Health, very wisely in our opinion, has provided for add-backs in certain scarce species of specialists. They have made that provision for radiation oncology, and I am very happy to hear that the medical schools have responded by adding back, up to date, nine add-back posts.

Nevertheless, we are still in the position of being dependent to a significant extent on either foreign graduates who come to Canada to train or foreign graduates who have trained abroad. Licensing and immigration requirements are such that we will entertain immigrants in this class from Britain, the United States, South Africa, Australia and New Zealand. But at this time in 1983 approximately 60 per cent of our radiation oncologists are either foreign undergraduates or foreign undergraduates and foreign specialty training; so we have had to depend to a very large extent on the training programs of Britain, Australia, New Zealand and South Africa in particular--not so much on the United States, where the evolution of radiation oncology breaking away from its historical association with diagnostic radiology took much longer, and we take pride in Canada that we have radiation oncologists who are true clinicians. In other words, they give whole care to the patients, rather than simply technical care, as often happens south of the border.

Dr. Hryniuk: Mr. Chairman, there is another aspect that is perhaps more apparent to us who are working in the field. That is, you will notice in that graph the take-off point for the advances really started to go up around 1978, and it takes about 10 years to train a medical specialist from the day he decides to go to medical school to the day he comes out as an academic, institutionally oriented physician. That explosion of advances has caught us unawares. We are really so busy applying those advances, we literally don't have enough time to teach enough students to take up the battle. That is just what is happening.

Mr. Cassidy: We welcome the people from the foundation and, as I said to someone, we get educated in a new area of government every day and have to be a very quick study to try to get a grip on it.

I have a couple of questions that I have just been finding out about all of the groups who come before us. What is the per diem for the chairman and the members of the foundation's board, if there is one at all?

Mr. Meighen: There is a per diem for members of the board, including the chairman, of \$60 a day for general meetings of the board. For subcommittees of the board, finance committee and the like, which meet no more often than the board, and the board meets about three or four times a year--three times a year, I think--it is one half, \$30.

Mr. Gray: It depends whether or not it is a half day or a full day; it is \$30 for half, \$60 for full.

Mr. Cassidy: I had a look at the report here and in your statement, Mr. Meighen, among other things you included the estimated number of new cancer cases last year and the year before, which indicated--I think 33,000 was the figure you gave, and the deaths were about 14,000 or 15,000.

Curiously enough, and I just point this out to you as a suggestion for next time, the kind of basic things that I think a lot of people want to know--for example, what is going to happen to me--aren't in your book on cancer in Ontario. I have been through it fairly closely while I have been waiting here.

For example, the number of new cases coming into the foundation's facilities is listed, but not the number of new cases in Ontario as a whole. I think a lot of people would like to know if they have some kind of cancer, what are their chances of survival. If you happen to hit one where there is an 80 per cent chance of survival, you say, "Well, gee, I sure am glad I'm not down in the other category." But that is the kind of thing, with simple information, which, if the fear about cancer is to be combated--it can't be overcome completely--will be helpful in terms of many things that you do, and I am sure the cancer society does as well, to get that kind of information along.

Has the chance of survival improved? I don't want to go too long into those questions we had before, but if you compare the number of new cases against deaths, let's say--I know that is a rough measure, because it may take several years before a new case leads to death--has the chance of survival changed appreciably in recent years?

Dr. Meakin: If I may, Mr. Chairman, I will just make a couple of prefacing remarks and get Dr. Clarke to fill in the detail.

What you are asking, Mr. Cassidy, is precisely what we are aiming for with the registry. The reason we didn't put incidence data in that annual report is that we didn't have it to put in

after 1971. We are hoping that when Cancer in Ontario 1983 comes out, it will have incidence data from 1975. We would be delighted to be able to do that.

The second part of your comment is one that we are also looking forward to. Head counts, or the process of it, and equating them with finances is one thing, and that is an important thing in fiscal responsibility, but we would also like to be able to say to you and any citizen in Ontario that you are getting your money's worth in terms of medical value.

This brings us in to the whole era of medical audit, which is done in a desultory fashion. As you know, in the health care system of Ontario there are audit committees within hospitals to assess deaths and that sort of thing. What we would like to be able to tell you is the value that the taxpayer is getting for his or her investment is improving with time. In other words, are people with the disease surviving? That we have already started, and we have published several medical audit evaluations in Ontario in the past few years. But these have been done by laborious, manual and partially computerized methods.

We are hoping, with the new information system, that we will be able to provide annual information on each site, because we would like to ask the question: Are we doing as well as another jurisdiction, better than another jurisdiction, or worse than another jurisdiction?

2:40 p.m.

Mr. Cassidy: I am suggesting that in addition to whether Windsor has got a better batting average than Hamilton, or whatever--I am not sure who is ahead, and that may well be uncontrollable--people would like to know in general and some of that information would be helpful.

Dr. Meakin: Dr. Clarke, you might wish to amplify on that.

Dr. Clarke: The answer very simply, Mr. Cassidy, is yes, there will be some information about the number of new cases in the province by site, as well as those referred to the treatment centres. But it is only because we will have got data for the registry up to 1975 now and then in the Cancer in Ontario 1984, that we have to have 1982 number of new cases by site.

Mr. Cassidy: But Mr. Meighen was able to cite a number of 32,000 cases.

Dr. Clarke: That was an estimate, and we estimate that based on--we do a complex incidence mortality ratio. So we say in 1975 we know we have this many new cases, we know we have this many deaths, we know that in 1982 there were so many deaths; therefore, we estimate. So you have an estimate. I am not really that comfortable with an estimate that I would like to put my name on; this is the estimated number of new cases by site and sex and age.

Mr. Cassidy: You really do not know in terms of the province as a whole.

Dr. Clarke: I got 1975 this week.

Mr. Cassidy: I see.

Dr. Clarke: Very exciting. Somebody came over with a computer output and I said, "Do you know what you have got here?"

Mr. Cassidy: What about the mortality rates, whether the chance of survival from a diagnosed case of cancer has changed appreciably over the years?

Dr. Clarke: I think you can see this. But essentially the foundation has kept uniform records on its own patients since the foundation first started.

Let us take cancer of the cervix, which we have done a survival analysis on for two time periods. For the time period 1933 to 1937, after five years only 33 per cent of the women were alive. Looking at the time period 1965 to 1969, 66 per cent of the women were alive. Cancer of the cervix is one of these diseases that many of my colleagues would refer to as being curable. After seven years, the life expectancy now of a woman with carcinoma of the cervix, if she has lived seven years after her diagnosis, is essentially the same as that of any other woman of the same age and sex in Ontario; so we are dealing with a curable disease.

These are data from the United States for an equivalent time period and includes patients not only referred to treatment centres, so it is not fair to say, "Look how much better we are doing." But we are at least doing well.

Mr. Cassidy: These are only patients who have come through the foundation.

Dr. Clarke: These are the foundation--I will come back to that question, because it is a good one.

Breast cancer has gone up from 46 per cent to 61 per cent alive in five years, comparing 1938 to 1966. Look at the dramatic improvement in carcinoma of the larynx, going up from 24 per cent of people alive at five years in the 1930s to 64 per cent alive at five years after diagnosis in 1970 to 1974.

One of the things we are going to do as a result of this registry linkage is that not only are we going to link in the cancer deaths, because there are some patients who are identified only at autopsy as having cancer and they have to be counted as new cases in that year, but because the Registrar General has been kind enough to give us information on all deaths in Ontario residents, we will be able by 1985 to also provide five-year survival rates for all cases diagnosed in the province starting in 1980.

Mr. Cassidy: With respect to other types of cancer, either from your information or from information in other

...improvements, I would assume the change in survival rate in those three areas is enough to be considerably significant; at least it is significant to me. Are there significant improvements in the survival rate with respect to other forms of cancer?

Dr. Clarke: Can I give this to my colleague Dr. Hryniuk?

Dr. Hryniuk: Let us go back to this table which shows the potential years of life lost. In leukemia in children, the average survival untreated is three months, and now it is over six years and about 50 per cent of the children are considered to be cured. In Hodgkin's disease 80 per cent of the patients are probably rendered disease-free permanently. Now this is true for non-Hodgkin's lymphoma. In carcinoma of the ovary, a uniformly rapidly fatal disease, about 30 per cent of the women getting treatment today will be cured and probably within the next few years that will have increased to 60 per cent.

In carcinoma of the intestine, there have been no substantial advances. In carcinoma of the lung, only about one quarter of the cases of carcinoma of the lung are susceptible to cure by a combination of treatments; that has not changed now for the past five years. Others includes a wide variety of very rare diseases--testicular cancer, choriocarcinoma and so on--all of which are of the order of 30 to 60 per cent curable.

Mr. Cassidy: Has that changed over the past 20 years?

Dr. Hryniuk: Dramatically. You are raising an excellent point which just occurred to me. The way to show it is to take this same distribution and show you 1961, 1971 and 1981 statistics, and you would see that the years of life lost would be much larger for these diseases which now, although they are a large piece of the pie, would have been much larger because of the way of the depiction of the data.

For those with breast cancer, we are delaying death. We cannot yet say we are curing it, but we are delaying death with adjuvant treatments after surgery in about one quarter of the patients.

Mr. Cassidy: I come back to the question as before. If you are now beginning to see substantial improvement at least in some areas, and that is some product from all the zillions of dollars that have been spent on research and everything else, why is it that your age-adjusted mortality rates in many of the major areas of cancer do not appear to have budged at all?

The one area where there has been a dramatical decline is stomach cancer, and Dr. Clarke said we do not know why; it happened, but we cannot explain it. It is not due to treatment, it is due to other things. If we are spending all this money on drugs, chemotherapy, new techniques and so on and having a better survival rate, why aren't the mortality rates changing?

Dr. Hryniuk: But they have.

Interjection.

Dr. Hryniuk: In the slide which showed you the age-adjusted mortality rates for the diseases, Hodgkin's fell and that included Hodgkin's lymphoma and leukemia. Carcinoma of the cervix fell. These are the examples that I am discussing with you now. What is not shown there are some of the bottom lines that fell, these other cancers, these rare cancers.

Your point is well taken. We are not showing the data maybe as forcefully and dramatically as we should be.

Dr. Meakin: Lung and bowel cancer are the ones that are still resistant to the forms of treatment that are uniformly successful. That is why we think cancer is multiple diseases.

Mr. Cassidy: In other words, what you are saying in part is that you are heartened by the fact that even if the incidence of some of the diseases where you are getting improvements is rare, if you can start to make some headway there, then maybe you can make some headway--

Dr. Hryniuk: Here is Hodgkin's disease. The data I showed you earlier was for Ontario. This is for Scotland. The incidences stay the same, as you see across the top, the dotted line, but the mortality from those cases had dropped by a factor of three.

Mr. Cassidy: --five is it?

Dr. Hryniuk: From two. In other words, all patients with Hodgkin's disease here who got it died. This was the case until about 1968; then, although the incidences did not change, patients with Hodgkin's disease who got it did not die of it.

Mr. Cassidy: Thank you very much. I will not belabour that one further.

2:50 p.m.

Dr. Clarke: I would just like to say one thing.
(Inaudible.)

Mr. Chairman: You will have to use a microphone to go on the record with that.

Mr. Cassidy: Dr. Clarke said she would show her chart about life expectancy next year.

Mr. Meighen, in your statement you called the foundation the cancer control agency of the province and then talked about its three roles, which would be treatment, research and education, in that order. It is my impression that in the area of education, apart from such things as helping to pay for medical students to spend the summer in your clinics and so on, outreach education to the public at large has basically not been a priority as far as the foundation is concerned.

I wonder whether you could tell us again why that is and whether there is not a role for the foundation even though a lot of that work is done by the Canadian Cancer Society.

Mr. Meighen: Those who have been associated with the foundation longer than I would not dispute the thrust of your statement. That work load seems to have been carried on mainly by the Canadian Cancer Society. The only thing I would say is that would not underestimate quite as much your statement might lead one to believe the role of education within the medical field itself.

Mr. Cassidy: It is important. I do not deny that.

Mr. Meighen: But vis-à-vis the public, I think it is fair to say that you are accurate in describing the main thrust of that as being carried on by the society rather than by the foundation. That may have historic roots that I am unaware of. Perhaps Dr. Meakin could answer that.

Dr. Meakin: I cannot add a great deal other than that my understanding is that in the very early days the foundation did run the first public campaigns in Ontario, because the embryonic cancer society really was not, if you will, in gear. Then we ran campaigns concurrently. My understanding is that the foundation withdrew from public campaigning with the gentleman's agreement that the society would continue to do it and would continue to support the foundation for giving up that turf.

One of the mechanisms inherent in successful campaigning is to maintain contact with the public, the potential contributor. Since I have been around, the society has always felt that one of its prime programmatic aims is to educate the public and it does go hand in glove with public campaign planning. By and large, the foundation--and Dr. Maus may wish to speak to this, since he has been with the foundation longer than I--withdrew from active public education many years ago. We do continue to provide education material to our patients and their relatives. We do continue to provide staff at all levels, from the foundation clinics, and the Ontario Cancer Institute does likewise, to assist the society in their annual campaign efforts, which include speaking to the public.

As to whether we have an identifiable budget program for public education, the answer is that we do not and it is basically because we think our relationship with the society is best served by staying out of that field.

Mr. Cassidy: Let me make a very specific kind of proposal or suggestion. Of all the areas we have discussed, the one area where we could achieve the most dramatic single improvement in the short and medium run in terms of cancer mortality is in relation to lung cancer; it is a preventable disease. I presume there may be a modest amount of lung cancer that is due to other factors, but virtually all of it is due to smoking, or it would appear to be.

It is an area where social attitudes as well as individual attitudes have to be changed, and are changing, but we are going to need a change agent. Over the past seven or eight years we have seen the emergence of the Non-Smokers' Rights Association, which, among other things, I think has been one of the most

successful groups of its kind anywhere in the western world. I know many of their campaigns have been taken as the model by people in Britain, the United States and so on. They do not directly campaign about smoking and cancer, although they use that, but my goodness they have had a tremendous impact in terms of raising awareness and raising the issues, of keeping it before them and putting pressure on politicians; of doing such things as having it okay to have no-smoking zones in restaurants and strengthening those people who want to ask the idiot next to them in their office to please stop smoking and inflicting it on everybody else etc.

Because of changes in social attitudes aided by a group like that, in some cases led by a group like that, we have seen quite a dramatic decline in the incidence of smoking in the past few years, although it is still nowhere near enough. That is an area where it is a bit difficult for the cancer society to go whole hog, and I think to some extent they may have dragged their feet. But going whole hog in terms of helping that group means one voluntary agency which has been accepting money to fight cancer, giving it to another agency which among other things, in order to survive, has to go out in the marketplace raising voluntary funds as well.

As you probably know, the NSRA was originally financed in large measure by the Department of National Health and Welfare. Those grants have begun to be cut back very sharply and yet they have been and are being effective. In view of the public health implications and in view of the fact that we must be spending \$300 million or \$400 million on health and hospital costs in cancer treatment, a substantial amount of which goes to lung cancer, there are dollar arguments as well as all kinds of other arguments for saying that kind of effort should be encouraged.

That is the kind of thing where, if the foundation does not want to match pamphlet for pamphlet and broadcast for broadcast the education effort of the cancer society, you could come in, and quite rightly. The expenditure of health promotion funds in an area like that, through an agency with proven effectiveness, will have a much more direct and immediate impact in terms of reducing deaths from lung cancer than any amount of money you could put into research in lung cancer.

Anybody looking at two programs, one that was a massive program of research into how to stop lung cancer once you get it and the other into a program of prevention, would have to say the benefits of the health promotion route are going to be a lot greater. I make that as a representation to you.

Perhaps you could comment on that, because I guess I feel frustrated, as a politician who does not have executive power, at the fact that governments are a bit namby-pamby there. Maybe they are afraid of the tobacco manufacturers' lobby or something like that. But they kind of beat around the bush, because there is an outfit over there that is sort of brash--in fact, it is a bit offensive at times; they say things we do not want to hear--and yet they are doing a very effective job. One has to conclude that if it had not been for the work of groups like that and changes in

social attitudes, we would really be looking today at an even higher incidence of deaths from lung cancer than we actually have. Would that be correct?

Dr. Meakin: Mr. Chairman, if I just might comment on that, we might reiterate some of the issues we raised prior to lunch. The foundation has not been as proactive in the public sphere as the society for the reasons I cited. We nevertheless keep in touch with the issue through the interagency for smoking (inaudible) in which a number of agencies are involved. We did sponsor the symposium a few years ago and were in contact with the Ontario Council of Health's health task force on smoking.

Out of the symposium we sponsored with the other statutory agencies in the ministry, we did bring forth recommendations which Dr. Clarke might wish to cite. It may be that we were remiss in not promoting those recommendations as vigorously as we might, particularly if one were going to get into the areas of modification of legislation and that sort of thing, based upon the Norwegian experience.

3 p.m.

Mr. Cassidy: I hear you, Dr. Clarke and others say, for example, "For goodness sake, why the devil don't we ban tobacco advertising in this province?" and that has proven effective in terms of reducing the number of teenagers who take to smoking in the first place. I would like to hear the board of the foundation speak up from time to time. You do not have to do it at every meeting, but speak up from time to time and lend your credibility and your concern to people who believe that tobacco advertising should either be sharply discouraged or banned completely.

I would like to hear that the foundation would be helping in the production of counter-advertising. I was at a drive-in the other day and there was a magnificent film of a bronzed Californian he-man on a surf board. He was even doing flips and turning the whole thing upside down. In the end it turned out to be a commercial for Export cigarettes.

Those are things which it seems to me you could legitimately get involved in even if you do not have the structure for a whole health promotion effort that you are prepared to and are able to run on your own. There is a group, the cancer society, able to do that. There may be other groups that are concerned about smoking and health and about other matters which may contribute to cancer. Maybe you should consider taking some of your funds and putting them in that direction as well, because a little money with those organizations that are largely staffed by volunteers can have a lot of impact.

Dr. Meakin: Certainly the heart foundation and the lung association and even mental health have a significant interest in the issue of smoking; the latter because of the effect on unborn children.

Mr. Cassidy: I would not wait for them.

Dr. Meakin: No, no.

Mr. Cassidy: If you were to plough in, maybe you might shame them into coming in too, and that would be a good thing.

Dr. Meakin: Yes.

Dr. Maus: With regard to Windsor, and I must say my experience is pretty well restricted to Windsor, I believe the foundation board has sent a directive out to all of our clinics that smoking should be banned in clinic corridors. This was documented and has been posted in our clinic.

So far as the hospital is concerned--and I think this is a fact--the board of Windsor Metropolitan Hospital passed a regulation that tobacco will not be sold in any of the commissaries that are available in the hospital, and smoking has been banned in the patients' rooms. It has been banned except in certain of the waiting room areas where the patients can go to smoke if they must.

I think there is an effort being made, at least in Windsor, to bring to the mind of the public the fact that smoking is hazardous, and these definite actions have been taken. I suggest this might be done in areas other than Windsor and perhaps is being done.

Mr. Cassidy: I think it should be.

Dr. Clarke: Mr. Chairman, I just want to say that the cancer foundation did take the lead in organizing the workshop that we did refer to and chaired, and does do things, but unfortunately it keeps its profile, as you pointed out, perhaps too low. However, a member of the foundation is working with the cancer society in developing a program of education for school children; they are doing that in co-operation with Dr. Alan Best's group at Waterloo, which is also closely associated with the non-smokers' rights group.

Dr. Hryniuk: Mr. Cassidy, you are absolutely right, but it is a little bit like being in a war: as you are being ground to death by the tank it is hard to remember that if you had bombed the ball-bearing works this would not have happened to you. The fact is that if we stopped cigarette smoking tomorrow we would still have a 20-year cohort of patients with lung cancer coming through the clinics and having to consume these resources, and these are people who are suffering. Life is hard choices between good things. We do not have enough money perhaps to treat all the patients we see. Your advice is very good. It is a question of how we implement it without making the people who come to us suffer.

Mr. Cassidy: What I am arguing is that out of a total budget of \$27 million, a half or one per cent of that could be very effective in terms of helping a number of volunteer agencies which are prepared to work in a way that does not contribute to reducing your case load in the short run but certainly does help in the long run. We are dealing in generations.

Mr. Meighen: Could I ask a question, Mr. Cassidy, just on a point of information? Do you see that it would be beneficial if--I can understand the money would be helpful for those agencies--if it were channelled, for example, for whatever reason, through the cancer society? Would that be equally effective in your view, or do you see a particular advantage in two organizations speaking out publicly?

Mr. Cassidy: In the case of smoking it happens that you have two organizations which are, to some extent, approaching it from a different point of view and with a different style. The cancer society gets a lot of corporate as well as private money and individual money and therefore it is more of an establishment organization. I think we live in a pluralistic society and therefore to think that you have to put all of your dollars, in terms of achieving your objectives, into one voluntary group--perhaps a pluralistic approach in this case could be helpful if it can be demonstrated that there are different groups in society which, working wherever they come from, can be a benefit.

It may be that the Seventh Day Adventists, for example, with their anti-smoking clinics, is a group that could be assisted. I know that when I quit smoking, I think it was some group that was aided by one of the opportunities for youth programs that was running a clinic. I went and saw a frightening film and that kind of thing. The moral support was really helpful at the time.

Mr. Meighen: A different approach is one of them will strike home.

Mr. Cassidy: That is correct.

Mr. Meighen: I guess our hesitancy--and we take your suggestion; we think it is an excellent one--is having rather given over to the society the role of interfacing with the public at large, ourselves concentrating a little bit more on academic type of pursuits and more--how shall I put it?--research, treatment and assembling of data for delivery to the society, they are going to do something with and delivery to government too to do something with. We have hung back, as you can see, from the public interface. You are suggesting we get into it. I, for one, have no objection, although I suspect we are better equipped by experience and by tendency to do the things we know best, rather than trying to compete with the society in a complementary way.

Mr. Cassidy: This is a pragmatic province. If somebody were to come in and demonstrate epidemiologically that if you put bananas in your head it reduces the incidence of cancer but you do not know why, being pragmatic you would have to scratch your heads and say, "Maybe we should at least do some more research to find out why that works."

If a group comes along and demonstrably has an impact on public opinion and can show that over the time that it has been around the Gallup Poll perceptions of acceptability of smoking, for example, have changed rather dramatically, then being pragmatic, I would say--

Interjection: It should be encouraged.

Mr. Cassidy: Or at the very least, it should not be allowed to go under because another government agency has decided, in its wisdom, that the fad this coming year is going to be mental health or something else which, to some extent, I think is what happened with the nonsmokers group.

Mr. Meighen: That has been always our (inaudible).

Mr. Cassidy: All I am saying is that if the agency is effective but is having trouble continuing its work, but if its work contributes materially to what you are trying to achieve, then it may be worth while diversifying a bit in terms of what you do. Perhaps I can go on. What proportion of the total research effort that went into cancer in Ontario is represented by this \$3 million or \$4 million that is being spent by the foundation?

Dr. Meakin: The cancer foundation in the province, what fraction--

Mr. Cassidy: As I understand it, you have about \$3.5 million worth of actual research in terms of--although I appreciate the treatment in many respects contributes to the research.

Dr. Meakin: It is a difficult question, Mr. Cassidy, to answer with precision. I am not trying to beg off giving a precise answer, which could be provided to the committee if you wish, but cancer research is directly supported by the foundation, as you say, to an extent of about \$3.5 million. The National Cancer Institute of Canada is a significant contributor. In the 1983-84 year, they will be contributing something in the order of \$11 million to \$11.5 million.

3:10 p.m.

Mr. Cassidy: The cancer society--do they spend a lot of research--

Dr. Meakin: No. All of the cancer society's research dollar allocations go to the National Cancer Institute of Canada, which then is the spending arm, if you will.

Mr. Cassidy: Are there other large sources, such as research through the medical schools or foundation money, going into cancer research?

Dr. Meakin: There are other sources, for instance, the Medical Research Council. They do have a cancer committee and panel that allocates dollars to cancer research. But scattered through their other support are also cancer-related projects. It is very difficult to get a firm handle on the dollar value of the Medical Research Council.

Mr. Cassidy: Is what MRC does in the cancer area substantial?

Dr. Meakin: I suspect that it is less than NCI but I do not have a--I could get a guesstimate for the committee if they so chose.

Mr. Cassidy: All I am really inquiring into is that if, for example, your research commitment only amounted to two or three per cent of cancer research in the province, then one could even argue it was expendable. As it is, you are saying it is maybe of the order of 15, 17 or 18 per cent, or 10 or 15 per cent of the total.

Dr. Meakin: That is right. We like to think it has a special character to it, if you will. As we have reoriented our program, we realize that we cannot do everything. Cancer research falls into two very broad categories--project support and people support. We were trying to do both and there was some problem that we were really accomplishing the two aims satisfactorily, so we decided to withdraw from project support and leave that to the Medical Research Council, the National Cancer Institute, the Department of National Health and Welfare, etc., and concentrate our efforts on people.

The reason we chose this route is that all of our clinics have tertiary referral. They have come from a family doctor usually to a surgeon in the community and have been referred on. You cannot run a tertiary referral centre, in my opinion, unless you are practising state of the art medicine. You cannot practise state of the art medicine unless you have research going on.

Mr. Cassidy: In other words, you cannot not do your treatment unless you put a certain proportion of your budget--

Dr. Meakin: That is a very firm philosophical view that I hold and it is shared by very many people.

Mr. Cassidy: I can understand it.

Dr. Meakin: That is one reason. The other attribute is that, with the help of some lottery funds for our research, for the first time in this province we are bringing a collection of people in the cancer field together to answer special questions that we think are pertinent. That is the clinical trial program centred at McMaster University linking the seven clinics to the OCI, the five medical schools and even a number of nonteaching hospitals. We are trying to answer questions that we think are important to people and have some fiscal implications.

The first one that got off the ground is answering a very simple question. A woman with a small breast cancer, after she has had it cut out, does she need radiation or does she not? It is a project designed to see whether dollars can be saved by not giving unnecessary treatment, a program designed to preserve the breast and the quality of life of the patient. We think there are certain issues that we can address in Ontario that have particular interest to us.

We are hoping to reintroduce focused grants and aid programs, focused in certain areas. One of the areas is the

interface area. We would like, if we can, to take advantage of the existence of a certain complement of industry of the province to interface with them in new technological developments, such as Atomic Energy of Canada Ltd. We would like to interface with some of the drug companies in an arm's length relationship so that this association does not compromise the scientific validity of what we are doing.

We think there are some things that are emanating from our own clinics and medical schools that are germane to the province and we would hate to see this type of research go by the board and be devolved upon the national agencies.

Mr. Cassidy: In dollar terms generally the 1980 report indicated that the real dollars going to the foundation had in fact declined fairly substantially from 1970 to 1980.

Dr. Meakin: He was referring there primarily to the research area.

Mr. Cassidy: That was the research area. I was unclear about that. You have been extremely discreet, because most people who come in here, of course, argue what a wonderful job they could do if we legislators would please be more generous. I hear you saying that you are concerned about getting reasonable return for the money that is spent in different kinds of treatment and you have mentioned both the radiation and the chemotherapy areas. I do not hear you saying that dollar constraints are themselves a serious problem as far as the foundation is concerned.

Dr. Meakin: I would not term them a serious problem; I would term them a problem of continuing concern and dialogue, if you will. The foundation, I think, has been really quite well supported through the last 40 years. But things do change: people's expectations change; what you can do for the patients changes. With our growing population and the fact that we can do more for people, we are simply getting more people coming to us.

To give state of the art radiotherapy, you can no longer be satisfied with buying and running a fairly simple X-ray tube machine of the 1940s and 1950s. We have passed through the era of cobalt, although it is still a highly useful method of radiotherapy. There are certain forms of radiotherapy, though the state of the art is with the high energy linear accelerators, which cost well in excess of \$1 million each to purchase, require special housing and have an operating cost something in the order \$100,000 a year per machine.

We also are entering an era when, to do state of the art radiotherapy, you have to have access to imaging devices, such as computerized axial tomography scanning. Generally in medicine they are used for making a diagnosis, but in radiotherapy if you do not hit the tumour, you are not going to cure the patient; and if you make your field too big, you are going to destroy too much natural tissue, so you want to hone your field to the tumour. So the CT scan is becoming an indispensable tool in that area. Furthermore, in areas such as the chest, where you got have a mix of bone, air and solid tissue, such as the heart, you have a variety (inaudible) of the X-rays. So the CT scanner, being an X-ray-based

device, is a tool for refining the dosage that is given. Then we have the chemotherapy costs I was mentioning a little bit earlier.

So what we are saying is that while we are growing, depending on how you calculate it, four to six per cent new patients per year, while we can do a lot more for them, it is costing us more money to deliver the goods in terms of state of the art treatment.

Mr. Cassidy: Right.

Dr. Meakin: So while the ministry has really been very good to us during the 1970s, some of these new high-tech developments of the late 1970s and earlier 1980s are putting strains on us, and we are putting strains on the ministry. We now have worked out a technique or method so that we have an ongoing dialogue so that they are made aware on a continuous basis of what is coming up.

Mr. Cassidy: If you have an ongoing dialogue with the ministry, many other agencies that are in your situation do not, so you should--

Dr. Meakin: I think all I can say is that I would not say our financial needs are serious, but the reality is that they are of continuing concern.

Mr. Cassidy: As I understand it--I was looking at your report--you took a terrible bath in the stock market last year, according to the annual report. I do not know whether you can explain that, but I reckon that you dropped about \$1.5 million out of your investment fund.

Mr. Gray: I believe the philosophy established by the investment committee was to move bonds out forward. They brought them in and then they suggested that they go out forward. As a result, there was a fairly substantial discount at the time of sale.

3:20 p.m.

We have reviewed our investment committee practices. As a matter of fact, we are now considering the possibility of going to one single management firm. At the present time we have three consulting firms of professionals who advise us as to what transactions should be taken.

Mr. Meighen: On a volunteer basis.

Mr. Cassidy: And you would just simply have one firm and give them the full responsibility for that.

Mr. Meighen: On a professional basis. That is the consideration (inaudible). We have not made an absolute determination.

Mr. Cassidy: I see. I would just like to conclude by asking about the role study. The one thing that concerns me there

is that every five years you get a bunch of people in from outside to tell you where you should go next. By the time you have looked at all of the things the role study is going to look at, essentially it means that in every major area of planning you are handing outside of your staff and outside of the board responsibility for making recommendations about what comes next. Those kinds of consultant recommendations generally tend to get fairly strongly followed.

In the process it is obviously costly. But also you are not developing any internal expertise for the kind of strategic planning. Yet I would have thought that with the size of the foundation and the kinds of challenges that are ahead, you need to have that kind of capacity on board as something to which you can turn on a regular basis instead of going out, taking tenders, getting a bunch of people who go to learn about cancer before they can do the job, teaching them about cancer, letting them tell you what to do and then going ahead and doing it.

Mr. Meighen: May I ask Dr. Meakin to answer that question, Mr. Chairman, except to say en passant that I think it is a little more than five years since our last one, which was in 1972.

Mr. Cassidy: Oh, was it? 1980 was really the same thing, though.

Dr. Meakin: Just research, Mr. Cassidy.

Mr. Cassidy: I see.

Mr. Meighen: The report has a certain validity to it certainly. On the other hand, in-house critical self-appraisals have their drawbacks too. If your own people are examining your own operation, seeing what can be done better, sometimes you do not get the objectivity and perhaps the ideas that you might have from outside sources, to recognize the drawbacks from outside sources too. Dr. Meakin, I know, wants to amplify this.

Dr. Meakin: I do not really have very much more to say, other than that you are correct. We do not have a highly formalized internal strategic planning process, although this goes on almost at a continuing level between our regional clinic directors and the chairman and myself, Mr. Gray and other people, and which we bring to the board for their reaction. Indeed, the directors in June defined their views and priorities for funding, which will be put before the board this fall for a continuing discussion.

While we are asking an outside consulting firm, in concert with the Ontario Cancer Institute, to look at the two of us, two organizations, we are not saying: "Look, here we are. Take a look at us and see what you think we should be doing." We actually have been doing a lot of planning. We have looked at the issue of outreach, how we can contact the doctors in the community. We have commissioned one of our staff to visit British Columbia and Manitoba and a number of the areas of Ontario. We have surveyed

the doctors, we have surveyed the cancer patients, we have a lot of the ground work done and, in fact, could come to our own conclusions. I think we will say to the consultants: "These are the data we have collected. There are several options we could go. We would like to see what you think. We will not necessarily follow your advice, but we would like an objective assessment."

In addition to having just management health consultants, we are writing to (inaudible) and demanding input into the quality of external, professional consultants they will use. We will not want a study, in my personal opinion, unless they are quality professional consultants in the health care field in other jurisdictions within Canada, the United States and Europe, so that we can really get an international comment on what we are doing.

We have also commissioned a study of the impact of energy on ecology, and a document to that effect is all ready for the consultants. We have commissioned a study on dental oncology of the province. A member of the University of Toronto dental faculty undertook this review, visited all the centres in the province and that information is (inaudible).

I could go on, Mr. Cassidy. There are about half a dozen pre-role study studies that have been accomplished in which we could make decisions, but collectively we think that in the long run we would like to have an objective, outside opinion.

Mr. Cassidy: You are saying it is not all black and white. It is not that you are doing nothing?

Dr. Meakin: Not at all.

Mr. Cassidy: I would like to thank Mr. Meighen and his colleagues from the foundation.

Mr. Chairman: Dr. Hryniuk, just one question. You referred several times to the 20 years of smokers. Is that the lung clearing yardstick under which for ex-smokers it takes the lungs to clear?

Dr. Hryniuk: Better than that. I guess the figure is somewhere in that neighbourhood. Once you stop smoking, the last of the smoking-related malignancies will be appearing on the scene in about 20 years. The peak will probably pass in about 10 years.

The best example I can allude to is an experience in industry where, with people exposed to asbestos, the carcinogenic potential of the fibres was not recognized and it just came through in a wave of about 10 to 15 years after the exposure started and has continued on from the shipyard builders and so on. From that kind of experience we make those kinds of predictions.

Mr. Edighoffer: I just have a brief question. As you know, we are here because we have been asked to review this legislation. One question that comes to my mind is why is this act set out in two parts? Why do you separate the foundation from the institute?

Dr. Meakin: It is a very simple historical development actually, sir. In the early days it was all one act. With the decision of the province to establish a provincial hospital and institute as a provincial resource in the OCI, the decision--I did not know the thinking then--was to establish a revision of the act divided into those aspects to change the foundation as a whole and those aspects in part II that pertained to the OCI itself. We are corporately separate, but as I mentioned earlier, bound by many bonds, both operational and fiscal.

Mr. Edighoffer: Only another brief question. Are there any other conflicts or duplications between the foundation and the society?

Dr. Meakin: Conflicts? Overlapping efforts?

Mr. Edighoffer: Yes.

Mr. Meighen: When you say any other, you are referring to the area that we discussed with Mr. Cassidy of public information and that sort of thing?

Mr. Edighoffer: Yes.

Mr. Meighen: The only conflict in my mind is sometimes I wish we got more credit for what I think the people of the foundation do, but that is only in my own mind. I think we have hidden our light under a bushel for far too long and far too effectively, but as long as we are getting the job done, I do not suppose it matters.

I know of none except--I would not describe it as a conflict, but the society has been generous to us in the past years. Dr. Meakin can give you figures and examples. They have been generous in the area of funding. If the society, for whatever reason, including lack of success in its campaigns, decides that it cannot be very generous, then that is going to make life more difficult for us.

I guess, for the moving forward and the volume of some of our programs, we are dependent on the society's goodwill, which makes us work to keep it. So far we have no indication that we do not have it, but if their campaigns do not have the same success as they have in the past, we may be cut back and that will cause us some grief. We do not have any conflicts that I am aware of. Perhaps Dr. Meakin can elaborate on other than those areas where we share jurisdiction that I have alluded to.

Dr. Meakin: We have taken great pains to avoid conflict. Members of the foundation sit on the society board and likewise; it is reciprocal. We have a liaison group that continues to talk to each other. We have a joint lodges committee that operates the lodges--members of the society and members of the foundation. Members of the foundation sit on the advisory medical board and they have members on our educational committee. We try not to overlap.

3:30 p.m.

For instance, transportation of patients: They look after it within 25 miles of the centre and we look after it beyond 25 miles. For needy patients who cannot pay for drugs, painkillers and various symptomatic remedies, we look after anti-cancer drugs. We try to make sure that there is no overlap. Those are two programs as an example in which we have taken pains to make sure that we are not paying for the same thing.

Mr. Edighoffer: I just wondered about the transportation policy. I had a very simple experience just a few months ago at Princess Margaret. I went over weekly to visit a patient from my home town. One afternoon when I went there, she advised me she was going to be moved that day to the Grace Hospital. She was asked if she had \$3 for a taxi fare. There must not have been any money available. It turned out she was moved that day and then, of course, she died the next day. Are they usually asked to pay their taxi fare when they leave the hospital if it is \$3?

Dr. Meakin: With any system there are imperfections that occur from time to time. I would not hesitate to comment on the reason for that apparent imperfection over a dying patient, but theoretically transportation to and from our regional treatment centres within 25 miles is arranged by the society. Outside 25 miles it is arranged by the society but we reimburse them for it even though they may get--

Mr. Edighoffer: That just hit me there.

Mr. Watson: I guess a lot of the things I had in mind have been answered, but one of the basic things that we do in this committee, and I want to make sure we have got ourselves straight on, is changes that many groups such as yourselves might want, need or feel they need in the legislation. I guess my first question is very simple. Are you happy with the present legislation under which you are operating? Is it satisfactory or is it extraneous now or outdated? Is there anything that needs to be changed particularly with regard to recommendations that we might make regarding your mandate through the legislation?

Mr. Meighen: If I could answer first, Mr. Chairman. As far as I am concerned, there is not anything fundamental that is causing us any trouble. There are a couple of housekeeping items that perhaps some day should be tidied up. The advisory medical board has been sunsetted as we mentioned and replaced by a health advisory board, but there is nothing that is inhibiting our work in our opinion at this stage that is contained in the present legislation.

Excuse me, Mr. Gray has said to me that out of the role study there may well come something that would lead us to ask the Legislature to consider making some changes in the light of whatever conclusions are arrived at.

Mr. Watson: But at the present time--

Mr. Meighen: At the present time--

Mr. Watson: That is fine. Do you consider yourselves unique? There are lots of other groups and lots of other diseases, the heart, lungs, arthritis, and I suppose everything else, but are you unique in the way that you operate or do you feel you are?

Mr. Meighen: In terms that the legislation that governs us makes us unique?

Mr. Watson: Yes.

Mr. Meighen: Dr. Meakin could address that far better than I in terms of jurisdictions in Canada. In my mind we are unique simply because it seems to me that Ontario is succeeding in delivering cancer care to patients across the province at a cost that is in many areas less than in other jurisdictions--we have talked about radiotherapy in the United States--on a regional basis that has merit, yet with a centre, the OCI, Princess Margaret located in Toronto, which is spawning expertise in volume, although we think our regional centres are also spawning expertise, but perhaps not quite in the same volume.

To what extent we are unique compared to their jurisdictions, Dr. Meakin perhaps could address that.

Dr. Meakin: I think we are probably unique in Ontario in having a combined treatment, education and research function with the concept, if you will, of regional strategic planning and fiscal control which is effected by grass-roots input through the regional centres with subsequent devolvment to the regional centres of a reasonable amount of autonomy in terms of tactical execution of the strategy and policy. I do not know of another example that has quite the comprehensive approach to health care as ours, that has that sort of character to it.

It is not unique in the world, in that analogous structures do exist in other provinces. In Manitoba it is primarily one large centre with a smaller satellite; so it is not quite as germane. Saskatchewan is a two-centre operation analogous to ours, with very little research, though. Alberta is a three-centre operation. British Columbia is a three-centre operation. There is no such organization in Quebec. In the Maritimes, one of our staff is now setting up a similar organization in Nova Scotia.

There is nothing else in Canada of the same dimension, with seven centres, with province-wide programs, for instance, the diagnostic tests we provide, etc., on a province-wide basis. So I guess in some respects we are unique, but not entirely so, in this country.

Mr. Watson: Maybe it is not fair to ask, but you might want to comment. Does the setup you have cause jealousy with other groups that might want a similar setup? I guess I cannot ask you to speak for some other group. That is why I am saying it that way. Have you, in a professional capacity, dealt with people who have said, "My goodness, I wish we had this setup," with the mental health or heart association or somebody else saying, "We are frustrated by the way we have to operate; we wish we could operate the way you do"?

Dr. Meakin: I have not heard it so much from within the province as outside the province. Certainly I have heard people from Quebec express the wish that they had an analogous organization, and indeed there is already a movement afoot in that province. The Fondation Québécoise du cancer is a professional group lobbying for the concept of a foundation such as we have here in Ontario. Certainly the people of the Maritimes, who essentially have been without this type of structure, have expressed that view to me on more than one occasion, and they are now succeeding in Nova Scotia and beginnings are being made in Newfoundland and New Brunswick.

Mr. Watson: One of the things I was a little surprised about today was that I was under the impression that we perhaps had made more progress, that the numbers of deaths or percentages and so forth were better. How can you account for that in sort of a public way? My concept before today was that we had quite a bit of improvement. Is part of it just better reporting, is this statistically all corrected for age and that kind of thing, or is it that other diseases have been conquered and, therefore, there are more people left to get cancer?

3:40 p.m.

Dr. Meakin: I think it is a combination of the two. You are absolutely right that while the age-adjusted rate has not changed maybe in certain respects, nevertheless there are more old people around where we are seeing more cancer. I think it is being diagnosed more precisely now. In addition to diagnosing whether cancer exists or does not exist, it is being subtyped now into different subtypes, cancer of the lung or cancer of the lymph nodes, because the treatment will be quite different, as we are slowly learning.

I guess we have not done enough to bring to the public attention the accomplishments that have been achieved. One of the problems is that with common tumours, such as lung and colon, for which very few advances have been made in the past 20 years, they are two of the very common cancers that are still a problem to us, and lung is rising, and tends to obscure the advances Dr. Clarke was citing earlier on for cancer of the larynx, Hodgkin's disease, cancer of the cervix, choriocarcinoma and leukemia in children.

There are a number of areas that I think could be put forward to the public to produce a great deal more hope. Part of that has come about by better methods of radiotherapy and better methods of chemotherapy. But some of it has come about by doctors of different disciplines talking to each other better. One of the notable examples is cancer of the larynx. In days gone by, if it came to a radiotherapist, he would tend to radiate; if it came to a surgeon, he would tend to cut out the voice box. With radiotherapists and ENT surgeons talking to each other, they are now in a position to identify those patients who could be safely and effectively radiated, reserving the devastating effects of surgery in the loss of the voice box to those patients who relapse after radiotherapy.

I think that was partly the reason why those data for cancer

of the larynx have been improved. People are talking to each other more. The jealousies of the professional prerogatives have waned with time and people have come to understand that they cannot know everything about everything every day, people who deal with cancer.

Mr. Watson: One of the words I have not heard mentioned here today is "lasers." Is that of use? I wanted to lead into a little bit about the technical advances. At what rate--are we levelling off in our advances? Are we on an open curve going up? I can refer to people who buy computers. People do not like to buy a computer because by the time they get it installed, it is out of date and somebody has got a new and better model. Where are we on that technology level?

Dr. Meakin: Laser technology in medicine has been applied, I suppose, primarily in other areas of medicine, in ophthalmology as an example, in the treatment of some disorders of the uterine cervix, including preneoplastic conditions.

I was referring earlier today to the use of protoporphyrins, the pigments that tumours take up and one can use various species of light to destroy the cell. We are learning that different wave lengths can affect the cells in a different fashion. Of course, an appropriate type of laser has the opportunity of being able to use selective wavelengths.

What I might do without embarrassing is ask my colleague, the director of the clinic in Hamilton who is chief physicist and has a primary interest in this area, perhaps to speak to that issue, the application of lasers.

Dr. Hryniuk: I wonder if I can ask for clarification first. Are you saying where are we in Ontario or where are we in cancer treatment?

Mr. Watson: I guess I am asking about the state of the art in terms of lasers or many of the other things. That is the point that comes to mind. Over the years we have heard about the wonderful things that lasers have done for us in communications. Is that application appropriate to medicine and particularly to cancer treatment?

Dr. Hryniuk: Yes. But I am asking in Ontario or in medicine generally, the application of lasers or other high technology.

Mr. Watson: I would like to know both. I would like to know whether we are ahead, behind or on stream.

Dr. Hryniuk: Okay. As you can imagine, in some areas we are behind, in some areas we are right in the middle and in some areas we are leading. In the area of lasers, we may very well be leading.

Lasers are, with a high-energy-source output of light, transmitted down a glass fibre, which is a very efficient and flexible way of doing things. We are experimenting with the implantation of these glass fibres in deep-seated tumours which

are resistant to other forms of treatment--radiotherapy, chemotherapy and cannot be operated on--to deliver the right amount of light to the right volume of tumour after the patient has been sensitized with this chemical, which is an acetic acid extract of blood to see whether this will complement or improve the results of other conventional forms of treatment. That is an area that is just now reaching the awareness of the scientific medical community and we, in Hamilton, are right in the middle of that.

Mr. Watson: You are saying what I wanted to hear, because I know I heard rumours and it had not come today. I just wondered where you thought you were on it.

Dr. Hryniuk: As Dr. Meakin alluded to, there are areas where much larger expenses are involved where we are not where we wanted to be and, of course, who ever is? For example, in nuclear magnetic resonance scanning, which is a very high-cost, high-tech approach where you can literally take any kind of picture you want of any part of the body, it would be nice if every cancer centre had one of those. It is probably going to turn out in five or 10 years to be necessary. We would like to be there today and we are not.

Dr. Meakin: I might just add to that, for the interest of the committee, the Ministry of Health did identify somewhat more than \$1 million for an NMR machine to be installed at the Princess Margaret Hospital through the foundation. I chair an advisory committee involving people from the community and outside of Toronto. We are monitoring that development there. The main purpose is to determine the application of nuclear magnetic resonance to oncology per se. We have had this process in operation and we will be meeting on Friday of this week to review our progress.

I suspect it is going to be approximately a year before we have definitive information. It is an example of a high-tech area that is rapidly moving. The probability is that the NMRs of today will be passé maybe in two years' time; so we are going to be cautious about our recommendations about the level of technology that is going to be useful in Ontario.

But, as Dr. Hryniuk said, the NMR has certain potentials. It does not involve any destructive injury to the body at all. It does not involve X-rays. It just involves a magnetic field. But it also gives us certain information that you cannot get any other way about the water content of the tissue. The water content tells you something about the degree of oxygenation, which is very important to our radiation oncologists in planning their treatment. That technology is under way.

We are also hoping to develop an interface with Atomic Energy of Canada Limited, perhaps in our Ottawa clinic. We have already had preliminary discussions with them. Atomic Energy of Canada is interested in diversifying. We are interested in the development of the new high-tech applications to oncology. We think we can combine our two interests at arm's length so that we are not compromised in any fashion to further the development that is on our doorstep in that particular part of the province.

I believe Dr. Clarke would like to comment on the high-tech computer aspects.

Dr. Clarke: You used the computers as an example of the possibility of where we are moving forward and asked how far we had reached. The oncology information system that has been developed in Ontario has already been copied by British Columbia. Alberta is coming to view it within the month. It is being purchased by Nova Scotia.

In terms of cancer registries, this automated computer linkage is considered to be the way of the future and, essentially, within five years most people will be wanting to copy the way we do it. It has been suggested that we sell ourselves short, that we do not publicize to everybody, "Look where we are and look how far we are moving." It may be, as our chairman has said, it is part of our personality.

3:50 p.m.

I would like to ask Mr. Breaugh one question--actually this whole committee, because it is possibly a difficult area. If you want to be able, through a registry, to identify occupational carcinogens, do you think it would be legitimate to capture the social insurance number on every patient admitted to hospital and then use that to link in, through the tax records, so that you could easily pick up a background employment history, admittedly only employment and not exposure history, of every patient with cancer?

Mr. Breaugh: How would it do that? How would the use of a social insurance number do that? Is that for identification purposes?

Dr. Clarke: The social insurance number would allow us to link into other files that have employment information.

Mr. Breaugh: So you would use the SIN as an identification source to enter into other computers where you might have--

Dr. Clarke: Yes, such as those that are held at Statistics Canada.

Mr. Breaugh: I do not think you would have a great deal of problem with, for example, groups of people who are more aware now that this kind of study must be done. I do not think you would have any difficulty at all doing that on a voluntary basis, unilaterally. If you were to do that, quite frankly, you might as well take the original concept of the social insurance number and chuck it out the window, all those assurances we were given that this number would never be used in that way. I am firmly convinced right now it is being used in that way all over the place. So, quite frankly, the use of the disc would not make a hell of a lot of difference.

Dr. Clarke: I tend to agree with you, but I just wanted some support for any negotiations.

Mr. Breaugh: I am sure the KGB could handle that little problem.

Mr. Chairman: Does that finish your questions? That completes the questioning. Gentlemen and ladies, thank you very much for appearing today.

One thing I might point out is an observation about the committee: In consideration of yourselves, the ashtrays of the members have remained unused today, which is certainly the first day that has probably ever happened.

Mr. Breaugh: Twenty years from now there will be a surge.

The committee adjourned at 3:52 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
LAW SOCIETY OF UPPER CANADA

THURSDAY, SEPTEMBER 15, 1983

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Breaugh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Conway, S. G. (Renfrew North L) for Mr. Mancini

Clerk: Forsyth, S.

Assistant to Clerk: Stesky, J.

Staff: Eichmanis, J., Researcher

Witnesses:

From the Law Society of Upper Canada:

Dick, R., Under-Treasurer

Ground, J., Chairman, Legal Education Committee

Guthrie, H., Benchler

Jarvis, K., Secretary

Legge, L., Treasurer

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, September 15, 1982

The committee met at 10:10 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS
LAW SOCIETY OF UPPER CANADA

Mr. Chairman: Gentlemen, we appear to have a quorum in place or getting coffee. Shall we proceed with the Law Society of Upper Canada?

Do you have a written opening brief of any kind with you?

Mrs. Legge: No, we do not have a brief.

Mr. Chairman: But you have an opening statement of some kind, do you?

Mrs. Legge: Yes, I have.

Mr. Chairman: Would you for the sake of Hansard and for the record identify the people from north to south who are with you?

Mrs. Legge: Mr. Hugh Guthrie is the vice-chairman of our legal aid committee and the chairman of our clinic funding committee. Mr. Rendall Dick is the under-treasurer. Mr. John Ground is the chairman of our legal education committee. I am Laura Legge, the treasurer, and Mr. Kenneth Jarvis is the secretary of the law society.

Mr. Chairman: Fine, thank you. Would you carry on, Mrs. Legge, with your opening statement, please?

Mrs. Legge: We feel that if you wish to ask us any questions about the law society and its functioning, we are very happy to answer them in so far as we can. We are very grateful to the government for the interest they have taken in legal aid. Legal aid is a matter of great interest to us as a profession because we feel that every member of the public should be able to have access to lawyers and to legal perfection and to representation in the courts when necessary.

In my early days lawyers used to give their time quite freely. I recall well that lawyers of my generation used to feel that 25 per cent of their time was done for legal aid. Today, having that in mind, as you know, lawyers are still giving 25 per cent of their time when they do legal aid. In any event, as a law society we are grateful to the government for their interest in legal aid. We are administering the plan and we try to do it efficiently, having in mind always the needs of the public.

We are also very grateful to the government for the assistance they give in grants to our legal education. They run the bar admission course, which is the transition between the purely substantive law that our students learn in universities and the practice of law. In our bar admission course, the emphasis is on procedure. These are the two areas where the government is assisting, and we as a law society feel that the money is well spent.

We are a self-governing profession, as you know. We were asked before the meeting began why we felt we could justify being self-governing and independent. To us, and I am sure to all lawyers present, it is perfectly obvious that we must remain self-governing in order to be free agents to represent the public. We have to be free from any government interference in so far as is necessary, so that our citizens can have independent representation in the courts and before government.

Mr. Justice Estey in the *Jabour* case, which is a famous case having to do with the authority of the law society, made a very big point of this. He said that in order to remain a free society and in order to keep the rule of law in so far as is possible, the legal profession should remain self-governing and self-disciplining.

Thank you very much.

Mr. Watson: There are a couple of areas I would like to explore. One of them you have already touched on in opening, and that is the legal aid and the legal assistance program. You have stressed your independence, and yet the government gives you the money to operate this. Does somebody have a little bit of background as to how much you are administering, the process by which that is happening with the legal aid and with the legal assistance clinics and the interrelationship between the legal aid and the legal assistance programs?

Mrs. Legge: Would Hugh Guthrie like to answer that?

Mr. Guthrie: Mr. Chairman, I will answer that. I think it is a rather large question that has been put to us. The legal aid plan was established by the government in 1965 or 1966, and we were asked to administer it. The hierarchy has been established under the Ontario legal aid plan. A budget is struck with the assistance of the Ministry of the Attorney General, and the funds flow through on a fee-for-service basis to the bar of Ontario, whose members are on various panels in various communities. The plan, as you know, is structured on a basis of regions, with an area director who is responsible for his particular area and who has an advisory committee that works with him.

The practising bar makes a contribution to the plan of 25 per cent of the fee schedule that has been established. On the dollars and cents, I do not have with me the amount that was spent in the past year. It is considerable, and if these figures are required, they can be provided to you, I believe, by Mr. Dick, who is with me.

The clinic side of the plan is a different animal. It was established to provide independent community clinics throughout the province, based on a need perceived by the local area and approved by the clinical funding staff under the plan and then ultimately approved by the clinical funding committee.

The clinical funding committee is a committee composed of two members from the Attorney General's ministry, two benchers from the law society and one lawyer member who is appointed by the society. There are at present 41 clinics in this province and they are scattered from the far west to Ottawa in the east and Windsor in the southwest. The majority of the clinics are in Toronto and serve various functions, some of which are specialized and some of which are merely to provide a poverty law base for those either who cannot afford a fee to their own lawyer or who do not otherwise qualify for a certificate.

10:20 a.m.

The argument has been made that the bar itself could probably deal with clinics or the work that is done by clinics. I believe there is an area in which the clinic has its place, and the net result is that the clinic expansion is not rapid. The brief you have from your research staff shows there are 40 clinics. Now we have 41, and we are making very slow progress in expanding because we can see a need for a balance between the private bar and the certificate side of the legal aid plan.

Is that an answer to your question?

Mr. Watson: Okay, but I would like to explore that. Who delegates or authorizes the clinics in the way they operate? Is that a government decision, an Ontario decision or a local decision?

Mr. Guthrie: The clinics themselves?

Mr. Watson: Yes.

Mr. Guthrie: The clinics were established to be autonomous groups within the community and they have taken that, I think, to an extreme. There was a decision of Mr. Justice Grange that said the clinic should be an autonomous body within its area. I think that probably has been expanded out of context slightly to give them what they perceive to be more power.

But basically the clinic can only function if a certificate has been issued by the clinical funding committee, and that certificate is reviewable each year when they apply for funds. The review gives the committee a chance to see that the operation is being conducted in a proper fashion. The clinic is in most cases a corporate body with an autonomous board of directors from its catchment area, but at all times it is responsible to the clinical funding committee which, as I say, is composed of members of the Attorney General's staff, the practising bar and the law society.

Mr. Watson: The background for my questioning on this is really that I come from Chatham. We happen to have one in Chatham. I think it is excellent. We get along fine. They do a lot of good

work and I am very appreciative of it, but I hear rumours that others do not operate so well. I guess the reason for my question is that I would not want one or two bad apples to spoil the whole system. If you say it is local autonomy that runs it, then I can go back and give credit to our local board for running it the way they do and blame the other local groups that do not run theirs right.

Mr. Guthrie: If it makes you feel better, I had occasion to review the Chatham clinic, and it is very well run and serves a large number of areas in Wheatley and elsewhere that would not otherwise be served. But there are some clinics that have not maintained the standard I think they should maintain, and they are being reviewed each year.

Mr. Watson: I would like you to know that I think ours is all right and I guess I will let somebody else worry about those that are not all right.

I am sure we are going to get back into more legal aid problems today, but the other point I would like to pursue is the one that keeps bothering us and one that we get questioned about. You are a self-governing body. There seems to be an increasing number of your members who, for lack of a better word, go astray. I guess it has always happened, but from a public perspective what is the protection that the public has? What is the limit? Is insurance necessary? Is there lots of money in the kitty to protect the public if an increasing number of these people do things they should not?

Mr. Chairman: Madam Treasurer, he does not mean those lawyers who entered politics.

Mrs. Legge: Yes, I was just wondering.

Mr. Breaugh: Oh? Not all of them.

Mr. Watson: That's right, not all of them.

Mrs. Legge: I would like to answer that question. The membership of the law society is now 16,000. Proportionately, the number of lawyers who go astray is no greater today than it was 40 years ago when I first became a member of the Law Society of Upper Canada. Just because we are so many more lawyers, there appear to be more who go astray. The percentage really has not changed.

You ask about protecting the public. I would like you to know that we, the benchers of the law society, are very much aware of our responsibility in protecting the public. Two years ago we engaged Mr. Stephen Sherriff as the new director of discipline. He is a former crown attorney in Peel and he is a very vigilant director of discipline, and we have a large staff which is doing spot auditing at all times.

Mr. Watson: What is a large staff? What percentage of the 16,000 people get audited?

Mrs. Legge: Do you know what percentage, Mr. Dick?

Mr. Dick: There are 54 staff members of the society engaged specifically in the discipline and auditing area.

Interjection: Full-time?

Mrs. Legge: Full-time, yes. We also are very careful about our rules of professional conduct. We watch. We are probably being more vigilant than the law society has ever been.

You ask about the money to pay for defalcations. Last year every member of the society paid--and this is out of our own pockets--\$300 to the compensation fund. We are meeting our commitments in so far as compensation is concerned, and the members of the public who have been defrauded by the very few members of our profession who have defrauded them are being compensated to some extent. We intend to continue this. We hope we will not have to increase the assessment to every member, but if we have to, we will.

I would like you to know that the one thing you learn when you become a member of the governing body of the law society is the very heavy responsibility we feel in seeing that the public is protected from the few bad apples.

Mr. Watson: What is "some extent" in the case of the people who have been defrauded? You used the word "some."

Mrs. Legge: It depends. At one time I think the limit was \$50,000 per person, and there was a top limit on the amount that was paid out for each lawyer. That is a matter of discretion. If it is a widow and it is all of her money, we will increase the discretion, and we do this all the time.

Mr. Dick, have you the figures there?

Mr. Dick: We have them as you have described the nature of the limits. I was just noticing that since the compensation fund was established, there have been 1,595 claims made with respect to 192 former solicitors, and claims have been paid to those claimants to the extent of just over \$10 million.

At the present time the annual levy that is imposed on the profession to fund this base amounts to a revenue of approximately \$4.5 million a year. The outstanding claims quite often involve many claimants in respect of one solicitor, and they consequently do take some time to establish the basis of the claims. But, currently, as the treasurer has pointed out, the compensation fund is well funded and it is meeting the progression of the claims as they are resolved, as they are settled and as payment becomes necessary.

Mr. Watson: Do you as a society insure--in other words, is your fund your own or do you reinsure with an insurance company or--

10:30 a.m.

Mrs. Legge: No. This is absolutely our own money paid for out of our own pockets for the compensation fund.

Mr. Watson: But do you run the portfolio that money is stored in yourself? How?

Mrs. Legge: Yes, we run it ourselves. The law society has it in investments until we pay it out, but it is money that is taken from each member of the society. No one else makes any contribution, and that is used to protect the public.

Mr. J. A. Taylor: Supplementary: This is in terms of defalcation that you were talking about as opposed to errors and omissions--

Mrs. Legge: Oh, yes, it is quite different.

Mr. J. A. Taylor: --just for clarity, where you have a separate insurance fund.

Mrs. Legge: Yes, that is correct.

Mr. J. A. Taylor: I have just one point on the question of cost and percentages, lawyers versus numbers, over the years. Assuming that those defalcations involve money, have you any figures in constant dollar terms in regard to the loss? In other words, I am looking at the severity of the situations as opposed to the straight numbers.

Mrs. Legge: I suppose it all depends on the value of the dollar.

Mr. J. A. Taylor: Let us say in terms of constant dollars.

Mrs. Legge: I do not know. Have we anything? I do not think we have. When I was first called to the bar if a person stole \$40,000, it would be like stealing \$500,000 today. This is what you are asking us. I do not know whether we have ever figured it out in constant dollars. Mind you, the amount of money we are paying from the compensation fund has certainly increased greatly.

Mr. J. A. Taylor: I was wondering whether it was a percentage that just kept up with inflation or whether there was something extra.

Mrs. Legge: I do not think we have that.

Mr. Watson: I want to explore the limit you mentioned of \$50,000 and find out what is that per--

Mrs. Legge: That is per claimant. Theoretically, if I have been defrauded of \$75,000, the Law Society of Upper Canada will give me \$50,000, but then it is a discretionary limit. We have a referee who, first of all, decides if it is a solicitor and client relationship, because if somebody has gone into business with a lawyer and they are running some kind of investment scheme and everybody loses, they come to us for compensation while they were in business together and that is not a solicitor-client relationship.

First of all, we establish if it is a true solicitor-client relationship and then we have a discretion to look at the claimant and the hardship on the claimant. Frequently, as I said initially, if it is a widow and this is all she has, we will increase that limit. There is an appeal to a committee of benchers. I have sat on those committees where we have doubled the amount paid to someone when it is all they have. We give it to them, so they get all of their money back in some cases.

Mr. Watson: You keep mentioning that fact. If somebody in today's terms loses \$100,000, you are saying they are only going to get \$50,000 unless they are a hardship case?

Mrs. Legge: That is correct because our rules are basically that, and that is what we will pay.

Mr. Watson: Who sets your rules?

Mrs. Legge: We do.

Mr. Watson: Therein comes one of the problems.

Mrs. Legge: I am not so sure.

Mr. Watson: Is \$50,000 enough in today's society for somebody who gets taken?

Mrs. Legge: But look here, this is money that is coming out of all of our pockets. The members present never intend to steal money, but we are putting this money into a kitty to protect our members who have cheated. This is our money. It is like a tax on us for the right to practise law.

Mr. Watson: That is right. I do not disagree with you, and that is your side of the story. I am going on the other side of the story. I am taking the fellow who has trusted a lawyer and then that lawyer has absconded with some money and you are only prepared to come back with a \$50,000 limit on that person.

Mr. Ground: If I could add to that, I think there are a couple of things that should be recognized. First of all, this fund was voluntarily started by the legal profession. Nobody demanded that we start it; nobody asked us to start it. It was done voluntarily. As the treasurer said, all the contributions come from the members of the profession. I do not know of another profession with a similar fund.

Mr. Watson: Let us take the people who lost their money on a travel thing. The government comes in and says: "Thou shalt establish a fund." If you are in a travel business and you are not even a bad actor, if you go bankrupt for any reason, then the government comes in--not the government. We have insisted there are other industries that are government-regulated where you have more protection than the law society where you are self-regulated. If I am off on my argument, please tell me.

Mr. Ground: I guess my only point is that I appreciate there are other industries where the government has required them to establish some sort of compensation. In our case that is not the situation; it was established by the profession itself.

I think there is something else that is relevant and should be said. The limits are \$50,000 per client, \$500,000 per solicitor, but an astounding number of our claims, maybe 80 to 90 per cent, are not claims that arise out of a true solicitor-client relationship. They are claims that arise because people are using lawyers as investment advisers, turning over their moneys to lawyers to invest for them. They are in a business venture with their lawyers or in some other relationship that is not a true solicitor-client relationship. It is always a grey area. It is very difficult to draw a hard line and say this is solicitor-client, this is not.

In my view, we have been overly generous in deciding what is a solicitor-client relationship and we have been paying out of the compensation fund to people who were really in business with their lawyers, investing money with their lawyers, and in situations which I do not think the compensation fund was originally set up to cover.

Mr. Watson: Is there a need then for some protection? There are different industries. If I can draw a very rough comparison, we have had the packing plants in this province where we had some sad cases where people lost a lot of money. That has resulted in a fund being established, so now if a farmer sends livestock to a packing plant and it happens he sends them in on Friday and it goes bankrupt on Monday, he will get paid 90 per cent of what he put in.

Mr. J.A. Taylor: They assess the farmer, do they not?

Mr. Watson: Everybody. They assess people equally.

Mr. J. A. Taylor: Do they assess the farmer on the number of head that he sends in?

Mr. Watson: No. They assess every farmer in the province.

Mr. J. A. Taylor: So there is a contribution.

Mr. Watson: And they assess all the packing plants. The point is, percentage-wise one can say that the number of dollars handled and the number of times that it happens is very minimal. The problem is that if you happen to be that farmer who had put in 50 cattle or 100 cattle you are in--we had one in our part of the country where it was \$160,000 and we just lost it.

What I am getting at is, is there a need for some fund to protect this kind of bankruptcy where there is a question, or do you feel that you present system adequately handles that?

Mr. Ground: I feel it does for the reason I have stated. I think the vast majority of losses that arise out of a true solicitor-client relationship are adequately covered by the fund as it exists. If you go beyond that, you have to ask yourself the question, "Do we need a fund to cover losses that people incur by virtue of bad investments or bad business arrangements because those are the great bulk of the losses and claims that are coming before this fund."

I think the fund more than adequately provides for losses arising out of a true solicitor-client relationship.

Mr. Rotenberg: Supplementary: There is a difference in a person going to his lawyer and saying, "Let us go out together and invest some money in mortgages." I agree with you on that. Suppose I go to a lawyer, as a lawyer, and say: "I want to put \$100,000 into a mortgage." I give you, a lawyer, the money and it goes into your trust account and you, the lawyer, are supposed then to take that money from your trust account and pay out the mortgage and so on. Somewhere in that process the lawyer ends up in Cuba with my \$100,000. Although I was investing with the lawyer, I was not using him as an investment counsellor, I was using him as my solicitor in trust to do all the legal work. Is that in your scenario the kind of thing that is a violation of the solicitor-client relationship?

Mrs. Legge: That is a solicitor-client relationship.

Interjection: And we would pay that.

Mrs. Legge: We would pay that.

10:40 a.m.

Mr. Rotenberg: The point Mr. Watson is making is that in these days an awful lot of people give a lot more than \$50,000 to the lawyer's trust account for a transaction which is a solicitor-client situation.

Mrs. Legge: Mr. Jarvis wants to say something.

Mr. Jarvis: Jack Ground has covered roughly what I wanted to say. Your concern is whether or not the society is responsibly taking care of the people who have lost through dishonest lawyers. The approach that is taken to the maintenance of the compensation fund is based on the history of the claims that are made. The vast majority of the claims are under the \$50,000. The protection that is afforded for those that are above is the discretion that is exercised, not just for widows and orphans, though that is basically the purpose of the fund. The other limitation, the \$500,000, is more often exceeded, and that is the limitation per solicitor.

To answer your concern, the experience has been that the vast majority of the claims do fall within these guidelines. That is how the guidelines were set, with that very concern in mind. In other words, we share your concern that people who deal with lawyers and give their money to them in trust in the normal course of a lawyer's practice should have adequate protection.

Mr. Watson: That leads me to my next thing. What happens in terms of your self-discipline system where the money is not lost, where the money is recovered? What is your attitude or disciplinary action towards that lawyer? I realize you are going to tell me it depends on the case but, really, what authority do you use in a self-governing body to discipline the people who are caught but do not get away with it? I guess that is the way I would put it.

Mrs. Legge: If a solicitor is dishonest and we find him so, he is disbarred. We do not look at how much money he has stolen or defrauded. If it is a dollar, he is subject to disbarment. It has nothing to do with the amount; it has to do with his honesty. We do not need dishonest people in the legal profession.

Mr. Epp: Can I just ask a supplementary?

Mr. Chairman: Gentlemen, we are running into a bit of a problem. There are legal aid matters and other matters that need to be discussed, and it has been suggested by one committee member that we deal with them separately; exhaust the legal aid matters and then go on to others.

I find there are a lot of supplementaries coming in, and there were other people who asked to be on the list. Can I have some guidance from the committee as to whether you want to do semi-endless supplementaries, whether we want to segregate this out into those two divisions or carry on strictly according to the list when they ask me to speak?

Mr. J. M. Johnson: Let us keep muddling on the way we are.

Mr. Chairman: Endless, semi-endless supplementaries.

Mr. Rotenberg: We are now into the law society matters as distinguished from legal aid matters, and there seem to be some supplementaries. I would suggest that if you can segregate your list of people who want to speak, we should continue with the law society matters and leave legal aid matters to get through with it. If we jump back and forth, a lot of people on the committee and the law society members might lose their trains of thought.

Mr. J. M. Johnson: I am not through with legal aid. I have a question on legal aid.

Mr. Rotenberg: I know; I have a lot of questions. I do not care what you do first, but we are into the law society matters; I thought we might do them and then come to legal aid a little later on or vice versa.

Mr. Chairman: What does the committee choose?

Mr. Epp: I would suggest that we deal with the law society right now and get into legal aid a little later.

Mr. Chairman: Fine. Is your supplementary on a law society matter?

Mr. Epp: Yes, it is.

Mr. Chairman: All right, fine, carry on.

Mr. Epp: Thank you, your honour.

One of the concerns I have is that when I read in the paper about cases where lawyers are disbarred for a period of time, I sometimes think the penalty is not very severe.

You may want to address my other particular concern, Mrs. Legge. Let us assume for a moment that I am a client who feels that the lawyer has wronged me; I write to the law society and it finds that somebody should be disbarred. Let us say this person has absconded with the money, or whatever he has done; at what point are the law authorities brought in where this person is also taken to court and prosecuted, aside from just being disbarred?

In other words, it is a client-lawyer relationship, but he has also violated trust and the laws of the land. At what point are the law authorities brought in so that he is also put on trial for absconding with money or whatever he has done? Maybe I should ask Mr. Dick this.

Mrs. Legge: Maybe. Can you answer that, Mr. Dick?

Mr. Epp: There must be some grey area in here and I am just trying to find out.

Mr. Dick: Virtually as soon it comes to the attention of our own investigators. We have investigators as well as auditors, who, when a complaint is received, go out and do the investigation. They are all very experienced. As soon as they discover something that indicates an infraction of the Criminal Code or any other statute, they then contact the police and bring them in. Often our objectives are virtually the same: Ours is a concern about the conduct, theirs is a concern about the infraction of the law. Then our own counsel, who are also involved, will perceive anything as they go over the reports of the investigators and auditors.

Mr. Epp: Are the two investigations more or less in tandem, for instance, with the police? Do you usually find that people are also prosecuted by the law if they are disbarred?

Mrs. Legge: Yes, frequently, but we move immediately. As soon as our investigation starts, if we find that there has been fraudulent conduct, incompetent conduct or some conduct that is unbecoming a solicitor, we lay our complaints. We have had cases where the conduct was not a criminal matter and we have still disbarred them.

Mr. Epp: I remember reports in the media a few years ago, which I assume were correct, about a lawyer--and this is partly getting into legal aid, but I am just looking at the infraction here--who was claiming about 32 hours a day for legal aid. Everybody else knows there are only 24 hours in a day.

I suppose he would go into a jail and see about five or six people there and would claim about three, four or five hours for each person. The computer picked up the fact that he was claiming more per day than there were hours in a day. He was disbarred for a year or two and then he was reinstated. I do not think that--I am not going to mention any names--

Mrs. Legge: You do not think we were severe enough with him?

Mr. Epp: I did not think so.

Mr. Dick: If I might just make an observation. In my other reincarnation, we did have cases where solicitors under the legal aid plan had been billing for time in a fashion that raised that issue. I can remember one instance particularly where the solicitor not only was prosecuted but action was also taken by the law society in respect of it. That was on attendances upon persons in custody where it was a form of billing that obviously was billing twice for the same time; so it was a specific. That was some years ago when I was in that other place; so it was current then, and I am sure the practice is still there.

Again, it is the people who are investigating it discovering something which in their fairly experienced opinion indicates the possible commission of an offence. The only thing you have to be careful with is that often that which can be done under the Criminal Code to obtain evidence for the purposes of a criminal offence is not properly available with the civil process in which we are engaged with the solicitor. So there are times when the police will pursue their own processes because they have that authority and responsibility. But until that arises, we exchange information and provide all our information to them.

10:50 a.m.

Mr. Epp: But do you not think--

Mrs. Legge: I am sorry to interrupt you. I know what you are saying. Frequently we will have a hearing. We set it up as a quasi-judicial hearing before a panel of benchers. We can only go on the evidence, the facts, appeals, and the pleas in mitigation before us. Frequently, when it comes into the press, it may sound that we should have taken much more severe action. But if you can see all the facts and all the extenuating circumstances, I think usually the decision that has been made is right. We are not perfect, but we try our best. We certainly try to weed out dishonest people from the profession.

It is very hard to judge. I do not know the case to which you are referring, but perhaps if you could sit down with the report that came before convocation, you would understand why that decision was made; I am sure you would.

Mr. Watson: I would like to pursue that, then I will turn it over to somebody else. I would like to know whether the reverse of that situation is true. Mr. Epp asked whether, if you investigate something and find that there is misconduct, you then bring in the police or criminal charges. Now suppose that process goes through and the accused goes into court and is found innocent. Is the reverse true? Can you still say that person is guilty if the courts find him innocent?

Mrs. Legge: Absolutely. Our standard of professional conduct is not necessarily a criminal act; it is quite a different thing.

Mr. Watson: But if you have disbarred a person for that reason and then the court system says, "No, you are not guilty--"

Mrs. Legge: Mr. Watson, if we disbar a person we have very good evidence that his standard of conduct does not meet our level of professional conduct. He has an appeal from us to the divisional court, He has an appeal from the divisional court, if he can get leave to appeal, to the Court of Appeal and to the Supreme Court of Canada; and that frequently happens.

But I am happy to say that it is not very often. It is very rarely that the decision of convocation in meting out punishment to a solicitor, to a member or a former member, is ever overturned by the courts. Our standards are much higher than the criminal law.

Mr. Watson: Okay, I will turn it over to somebody else.

Mr. J. M. Johnson: I will have to seek your advice, counsellor. I want to ask one question on legal aid which I will put off if you wish. I have a question on advertising. Where does that fall?

Mr. Chairman: That would be law society matters.

Mr. J. M. Johnson: My question on advertising is whether the public is well served by not allowing lawyers to advertise.

Mrs. Legge: Do you want to answer that, Mr. Jarvis?

Mr. Jarvis: One of the difficulties with approaching advertising is that in order to say that lawyers should be able to advertise, you would have to be in a position to say that it would on the whole be good for the public to have them advertise.

Everybody is familiar with the kind of commercial advertising that bombards us from every side. Lawyers deal with very sensitive areas of people's lives, and people have to have confidence in their lawyers. If lawyers advertise, their advertisements must be true, not misleading, certainly not false. It is extremely difficult to conceive of an advertisement of a lawyer's services that would not be misleading.

For example, if a lawyer advertised a simple will for X dollars, this would almost certainly be misleading. Nobody knows what a simple will is, much less whether the person who is reading the advertisement and going to the lawyer's office needs a simple will. He is not in the best position to know that. The lawyer, before advising that client on what kind of will he needs in his particular circumstances, would have to sit down and talk to him.

One useful thing that lawyers could and do advertise is their fee for an initial consultation, because that would enable someone to know what he was getting into in entering a lawyer's office for a set period when he could raise such issues as: "What do I need? Is it a simple will? Is it something different? How much do you charge and on what basis?" If he goes on from there, he has some knowledge of what he is getting into and can compare and decide whether he wants to go ahead.

Another area where advertising is probably helpful is in enabling people to find a lawyer who actually practises in the

field where their problem lies. The society has tried to meet this by permitting them to advertise the areas in which they prefer to carry on their practice. This is not free of difficulty, because everybody means something different by the word "specialist." To a doctor, "specialist" has a very precise meaning; it means somebody who has taken extra courses, has gone more deeply into a narrow range of expertise and has been examined and is subject to continuing control in that narrow specialty. To many people, though, if you say you specialize in family law it means no more than that you like to do it and you spend most of your time doing it.

Those kinds of advertisements are helpful to the public, perhaps in a somewhat limited way. They are helpful in that they enable people to go to the telephone book and if they feel they have a problem in a named area, at least they can get the names of a group of lawyers who they know from the advertisements are prepared to serve them and do habitually practise in those areas.

There is another subtle point, perhaps, to be made about lawyers advertising. I do not want to labour this, but I think it is a real point and I think it is an important one. The kinds of advertising that people are bombarded with day in and day out have built sort of palaces on the mind, if you like. People generally approach commercial advertising with a degree of healthy scepticism; they do not believe everything they read in the ads.

The core of the solicitor-client relationship is complete trust on both sides. It would be a pity if lawyers engaged in a commercial type of advertising with the long-term result that this trust would be eroded and replaced by the kind of scepticism that ordinary folk have in respect of commercial advertising. It would be destructive of the good that the lawyer could do to the citizen, because the citizen would no longer feel that same trust that he has to have in his lawyer, his doctor and the other people who advise him in a professional way on things that are so important to him.

In controlling advertising it has to be borne in mind that the test of the advertising is whether it is going to be helpful to the public and not misleading to them.

Mr. J. M. Johnson: I certainly accept that. I think when I used the term "advertising" I meant it more in the sense of making the public knowledgeable about the services offered by the legal profession than in the spirit of promoting a lawyer.

As an example, in my riding in small-town Ontario, Wellington-Dufferin-Peel, there are a lot of small communities and people who for many reasons have not really needed the services of a lawyer, but when they do have an occasion they have no knowledge of which lawyer to see. They usually take the advice of someone who has been to a lawyer, and it is habit that they just follow through. But quite often the lawyer is not prepared to give them service in that particular field.

My contention would be that there should be some type, not of promotion, but certainly of information available so the

individual could have the opportunity to look through a phone directory or something and find a lawyer who, if he did not specialize, at least had an interest in the field he was involved with. For example, if a person were charged with drinking and driving, he would likely ask a bartender for the name of a lawyer.

Mr. Ground: If I could answer that, there are two services that we hope will fill this function, both of which have been expanded and both of which have been widely advertised. If you go into your local liquor store you will see pamphlets from the Canadian Bar Association and the law society, one of which refers to Dial-a-Law and the lawyer referral service.

Throughout the province is a toll-free number to the lawyer referral service at Osgoode Hall, which will give you the names of lawyers in your area who practise in a particular field. Dial-a-Law is a service that is being gradually expanded throughout the province. You can dial into a total of some 30 different tapes and get five or 10 minutes on custody, immigration, landlord and tenant or whatever it is you want to hear about. At the end of that tape, the lawyer referral service comes on and asks if you wish to be referred to the lawyer referral service, which then will give you the name of a lawyer who practises in that area.

11 a.m.

I think the public information committee, of which I am a member, has done a good job over the past year of expanding the Dial-a-Law service. It has had a lot of press. There are pamphlets in libraries, liquor stores and what have you. We are trying to get the message through to the public that they can phone in, get some information on the law and get the name of a lawyer who will service in their particular area.

Just to add to what Mr. Jarvis had to say, we do not prohibit advertising. There are a number of things you can indicate. You can indicate your fee for initial consultation. You can indicate the areas in which you practise. You can indicate the languages you speak. You can indicate your office hours and all that sort of thing. The only thing we are concerned about is price advertising, because who knows what "Simple Divorce, \$200" means? Nobody knows what that means.

Mr. J. M. Johnson: That is the point I was trying to reach. If lawyers could advertise--the point you raise--that would be extremely helpful. The question I have is, why are there so few lawyers who do advertise? I cannot ever recall seeing an ad where lawyers professed they were experts in family problems and so on.

Mr. Ground: In the Yellow Pages you will find considerable listings under each area or practice.

Mr. J. M. Johnson: In the telephone directory?

Mr. Ground: Yes, and certainly in local newspapers there are a number of professional columns where they will say criminal law, family law--

Mr. J. M. Johnson: That is good.

Mr. Breaugh: I have a couple of areas I would like to explore with you since the law society has been active in the preparation of reports on various matters. I know you have committees that consider things from a rather unique perspective. Lawyers are involved with the law and how it affects individuals.

One area that was included in our research package here that I am interested in is the whole area of what the law does for victims and how you try to determine some measure of fairness in treating everybody before the law.

One of the things which the law in its ancient sense does, and probably does as well as we are ever going to do it, is it approaches the problem of someone who has broken a law and who goes before the courts and receives sentences and all of that. In that regard, the law perhaps is not smooth, but it seems to know what it is doing and its functions. It is a long tradition of things.

One area where it seems to me it has fallen down badly and that is only now receiving some attention is what happens to people who are victimized by this legal process; people who, for example, have someone in the family who is murdered. The legal system in the traditional sense can handle that. But it does not seem to have given much thought to, nor does it seem to handle very well, what happens to that family after two or three years of criminal proceedings, legal costs and disruption to the family.

Tomorrow morning we are going to look at the Criminal Injuries Compensation Board, which is a rather limited attempt to deal with that. There have been federal-provincial task forces on the matter. A number of recommendations have been made about, for example, when an argument can be made--I will try to make it succinctly--if someone steals my car, one victim in there who is often neglected is me. I may never get that car back, and I may have to face a whole new set of laws dealing with an insurance company.

The public at large--I am sure every member here will have cases of people who thought they were covered and did not understand, for example, that if your house burns down, your insurance policy, which you thought covered your problems if a fire takes away your residence, only begins another legal process. In a number of respects now, we are beginning to become more aware of, talk about and study these things which are generally called the victims of crime.

I wonder what the law society has to say this morning on that whole area. I would like to get a general response from you.

Mrs. Legge: Mr. Breaugh, I think that we from the law society are controlled by the Law Society Act. Really what you are asking us about is law reform, and this is a matter for the Ontario Law Reform Commission, which the Attorney General has in Ontario. They have one in Ottawa and in all of the provinces. We all have our views, and philosophically we probably are not far apart, but this really is not a function of the law society. Our function is to govern our profession so we are able to give

competent, available service to the public. The whole thrust of the law society is to see that legal services are available in a competent and honest manner to the public. That is our prime concern at all times. What you are asking us about is law reform, and that is not our field.

Mr. Ground: That is not to say the profession is not concerned.

Mrs. Legge: We are very interested.

Mr. Ground: The question of compensation to the victims of crime is very much an issue before the Criminal Lawyers Association and the criminal justice section of the Canadian Bar Association who are very active. The profession certainly is concerned, but it is not a matter of the governance of the profession that really falls within the law society's area.

Mr. Breaugh: From the law society's point of view then, the structure as it is now set up is a little on the compartmentalized side and you prefer to keep the law society dealing with the legal profession per se and not to participate as a law society in, for example, suggestions about or studies of reforms of various laws or the practical ramifications of the legal system as it now stands.

Mrs. Legge: We do it as lawyers, as individuals and as groups of lawyers all the time. The Canadian Bar Association is very active in this field, as Mr. Ground said, as is the Criminal Lawyers Association and the Advocates' Society. We are all members of most of these. When we have that hat on, we are very concerned about law reform, improvements and the protection of the citizen.

Mr. Breaugh: One of the difficulties which outsiders have with this problem is that they deal with people who have been to a lawyer and are unhappy with the lawyer for a variety of reasons, or are unhappy with the circumstances after a long criminal proceedings, for example. It is very difficult, because they have established a relationship with that lawyer, a trusting one in matters legal. They generally turn to the lawyer and say: "What can I do about this? I am in financial ruin. There has been a stress and strain on my family." Very often the lawyer will say: "Yes, but I am here to process a criminal case. That is the end of my jurisdiction and that is the end of my relationship with you." They are then kind of turned loose and there seems to be a slippage period in there when there is no one.

Mrs. Legge: They must have seen the wrong lawyer, because most lawyers will see that they are properly looked after in all aspects, and if he cannot do it, that they go to another lawyer.

Mr. Breaugh: Let me just pursue that one a little bit too. One of the most common complaints I get from a fair number of people is, "I do not think my lawyer did a proper job." Then I explain to them what avenues are open to lay a complaint and all of that, most of which I am sure, for someone who is trained in the legal profession, seems to be a very logical way to proceed

with this. But to the public, it seems a very confusing thing because the first step is probably to get a lawyer to sue a lawyer, or to get a lawyer for legal advice on how to pursue disciplinary action. In my judgement, the public generally feels that is not a satisfactory way to proceed. Are you commonly receiving complaints of that nature?

Mr. Ground: Mr. Breaugh, we do not sense that there is any difficulty in citizens complaining about lawyers. The figures for last year are 2,500 written complaints, 9,500 complaints by telephone and 500 complaints in person coming into the law society. That is a total of about 13,000 complaints. That is almost one per lawyer.

I do not think there is any reluctance of the public in complaining about lawyers or coming to the law society with their complaints. The procedure is not complicated. They are told to write a letter.

Mr. Breaugh: Do you have some record, for example, which would show out of 13,000 complaints, action was taken on X cases?

Mr. Ground: Yes.

Mr. Breaugh: What are they?

Mr. Ground: Formal complaints sworn 150; reports to convocation 50 to 70; audits carried out 1,050; audits followed by further review 924; and audit reports to discipline for action 42.

The reason probably is that a vast majority of the telephone inquiries, which may be complaints or may just be seeking further information, can be answered adequately by the secretariat, "Go and get your bill taxed" or "The reason the lawyer did thus and so is because..." Many of those are not the types of thing that need to be followed up with a formal complaint.

11:10 a.m.

Mr. Breaugh: My experience would be roughly what you have just said. The process is relatively well publicized, I would say. Although the general public may not be aware of it, it does not take much in the way of an inquiry to find out how to lay a complaint. It is the result of the process which seems to be at question as to whether it is an effective process. In other words, it is not too hard to complain about the practices of a lawyer, but it is rather difficult to get something done about it; that seems to be the consensus I have arrived at.

Mr. Ground: As we said, we have a staff of 54 people whose job it is to follow up on these complaints. Unless it is obviously informational or something that should go to the taxing master, or something that the person from our secretariat can answer on the telephone, a letter goes out to the lawyer complained of asking for an explanation. Unless that explanation is satisfactory to the secretariat or to the discipline committee, further procedures are taken. I do not think there is much slippage between complaint or inquiry coming in by telephone and taking the appropriate procedures against a lawyer complained of.

Mrs. Legge: Mr. Jarvis wishes to add something.

Mr. Jarvis: The vast majority of complaints are rather easy--it's misunderstanding, it's the lawyer being too slow to keep the client advised of what is going on and the client is in the dark--and these are cleaned up pretty quickly. There will always be a hard core of complainers who can never be satisfied. One has to be concerned about this because you can never take it for granted that in this instance they do not have a valid complaint.

After the secretariat has tried to deal with it and the complainant is dissatisfied--and I stress that there are not many of these, but they have to be dealt with and dealt with carefully--then a benchler, an elected representative, has a go at it. Finally, there is a complaints review committee, which is chaired by a lay benchler and which has other benchlers on it. It has the power to disagree with the secretariat, to disagree with the benchlers who have looked at it up to that point and to send it back and say: "No, you shouldn't have refused to deal with this complaint. There is a legitimate complaint; so go back and deal with it, either by investigating it further or by laying a formal, capital-C complaint, which begins this quasi-judicial proceeding."

I think I can say to you that everything is being done particularly to satisfy the people who are the most difficult to satisfy. The vast majority go away happy.

Mr. Breaugh: Every group that I know of that has some kind of a complaint procedure, whether it is the police, the medical profession or the lawyers, runs into the same problem. From their point of view there is a complaint procedure at work which they understand, and I believe they do make an effort to try to deal with these complaints. I think the public's perception of that stumbles on the same thing, "If a lawyer has done me wrong, my only redress is to go to another group of lawyers who are unlikely to contravene the original opinion that was given."

A quite common thing in my area is that if someone takes a case to a lawyer and he is unhappy with that lawyer's practice, it is sometimes very difficult to find another lawyer who will intervene and say, "Maybe we ought to try it this way."

Mrs. Legge: Strange. I think, Mr. Breaugh, with all due respect, that is a great misconception. One of the first things you learn when you become a lawyer is how ready another lawyer is to report you to the law society and to see that you are disciplined. Our profession is probably the one where we never look for any protection from our fellow members, because it has never been there and it still is not. Many of our complaints about lawyers actually come in from other lawyers. Isn't that true? Yes, Mr. Dick.

Mr. Dick: If I might, one of the things in my continuing education was going to the complaints review committee. In the cases I was present to see, there was never any lawyer involved or even sought in the pursuit of that individual's inquiry with the law society.

The complainants review committee is quite informal; we just gather around a table--one at a time, of course, for their own privacy--with the three benchers and the staff people who have the files and the information. There is no requirement that they have done this, that or anything else. They are just invited to express their dissatisfaction with what has gone on to that date. Then, as they raise their views and so on, there are persons there who can explain what has happened in respect of that point, this point and the other one.

I guess, having had a lot of experience over the years in dealing with the public in various matters like that, it works very well. It is very informal. It is not as formal as the prosecutorial process that takes place at a discipline committee hearing where persons are entitled to have counsel and evidence is taken down and all of that. The complaints review committee is very informal, and people are invited to come in. As soon as they make their complaint and so on and we advise them, they are notified by a form as to the availability of this complaints review committee if they are not happy with what transpires in the course of the review of their complaint.

Mr. Breaugh: The basic problem I am faced with is same one you find with any other self-regulating and self-governing group, that there is some difficulty in accepting whether this is fair. Now it may or may not be fair--and I am hearing the legal profession saying this morning that from their point of view this process is a fair and adequate one, that everybody understands it and that it works very well--but when I get complaints in my office about the practice of a lawyer, the response is much the same as when we get complaints about the practice of a doctor, that there is not a hope in hell that anybody is ever really going to do very much about this. You can complain, and that process is fairly clear in both instances, but to say that everybody understands and is happy with the process is rather difficult. I am not sure whether that is a reality or a perception; that is my problem.

Mrs. Legge: I think probably, Mr. Breaugh, it is a perception and not a reality, because if you have practised law in this province, you know that if there is one thing a lawyer is terrified of, it is a letter from the law society. Most complaints that go into the law society result in a letter going out to that lawyer, saying: "We have had this complaint. Now explain your conduct." Every lawyer present knows that if you get a letter from the law society, it is a bad day and you had better answer it and answer it adequately or there is further investigation.

Lawyers do not--and I knew this long before I was a part of the governing body--cover up for each other; they never have. We report each other at the drop of a hat. If we are even suspicious, we report each other. It is one way of getting rid of competition.

Mr. Breaugh: That's a tough union you've got there.

Interjection: Do you want to be their bargaining agent, Mike?

Mr. Breaugh: In my opinion, this is the toughest trade union in Ontario, and I don't think there is anybody around who can compete with them.

Let me discuss another area with you which perplexes me somewhat because, frankly, I do not have a good, easy way to go. One of the things that bother me somewhat is that the legal profession, with its traditions and the way it goes about its profession, has a funny aura about it; it gets back to the sanctity of the law, the way the law is practised and all that stuff.

Here is my problem. For example, the law is at work over at the inquiry regarding the Hospital for Sick Children. A large number of well-qualified lawyers are practising their profession. There is a good purpose under way of trying to determine what did happen at the Sick Children's Hospital. It is an incredibly expensive process. Is there any other way of handling that kind of problem?

Mrs. Legge: Mr. Breaugh, once again you are asking us something that is not really a law society problem, but I understand what you are saying.

I suppose, philosophically, it gets down to this: Our legal system is not perfect, but I can ask you to show me a better one in the world. Our greatest concern as a profession is to see that our democracy and our rule of law are preserved. I am not just using high-flown words; this is a fact. We want to see that there is a legal system in place and an administration of justice that ensures that all members of the public are protected before the courts, before governments and before the law. That is our prime concern.

11:20 a.m.

If there is an aura that is not understood or that frightens people, usually that is dispelled once they see a lawyer of their own.

We are always looking at improving the governing body, and we can improve on that. There is not a better system, to my knowledge, in the world than the one we have here in Ontario. We are not taking credit, but it is our government and our democracy. It is our responsibility as lawyers to see that we uphold the law, and the rule of law, and protect the public.

Our main concern at all times, I would like to repeat, as a governing body, is the protection of the public. If you are down at Osgoode Hall, where I am most of the time, about every move we make we ask: "Is in the public interest?"

Actually, Mr. Breaugh, I might tell you that a good many in our profession are unhappy with the law society because they feel we do not adequately represent the interest of the profession. They are quite right. Our chief interest is the public. We are criticized all the time by members of the profession because we are not out fighting for the profession's rights. That is not the law society's function. Our function is to protect the public.

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Mr. Breaugh: One of the problems I have with that, and it is certainly a very valid point of view and I am sure from your perspective it is very traditional and very responsible view for the law society to take, is that so long as the law society functions as it now functions it would seem very difficult to change the process very much. You are protecting the public's right to be represented by legal counsel, which is true, but in that case, or in other instances where the traditional way the law works, you say that is not your responsibility, that is the responsibility of the Ontario Law Reform Commission, the government or someone else. Yet you are in a position as practising lawyers to identify where there are things that are not quite as smooth as they could be, where there might be alternatives.

Mrs. Legge: As practising lawyers we do.

Mr. Breaugh: But not through the law society.

Mrs. Legge: No, because the law society is confined to the authority you give us under the Law Society Act.

Mr. Breaugh: So you feel that is set.

Mrs. Legge: Yes, and our function is principally to govern our profession so our profession is kept competent, honest and able to serve the public as the public deserves to be served.

Mr. Jarvis: Mr. Chairman, I wonder if I could take a slightly different approach to this problem because it is one that a number of people share with you, and it is sometimes hard to enunciate exactly why it is that the society feels it has to be limited to the narrow range of the governance of the profession.

One of the reasons is this: In order to practise law in this province you must be a member of the law society. The reason for that is that the public needs to be able to identify the people who are subject to the discipline of a governing body so they know they are the lawyers who are properly trained and subject to the control of a licensing body.

If the law society developed views on matters of general legislation, let us say some reform of divorce law or something of that sort, there could quite legitimately be a wide variety of views within the members of the profession. It would be a matter partly of political outlook, partly of religious outlook, and they would be entitled to their views.

If the law society were to express a view on behalf of the profession as a whole on a matter outside the governance of the profession, those members who happen to disagree with that view could not quit the law society without giving up their livelihood.

It is quite different with the voluntary organizations such as the Criminal Lawyers' Association, the Advocates' Society, the Canadian Bar Association. They are busy, and in fact are busy, developing views that represent the views of a large majority often of the legal profession on matters of general legislation.

If you are a member of the Canadian Bar Association and you disagree with what one of their sections has developed, you can quit the bar association. You do not need to identify yourself with that view. As in other professions, there is this distinction between the responsibilities of the licensing body and the responsibilities of the voluntary organizations that have a public duty, which I think by and large they recognize, to develop the views that can be developed because of their immersion in those affairs. I do not know if that helps or not.

Mr. Breaugh: One of the reasons that I have a little difficulty with your position on it this morning is that I have obviously misread the workings of the law society because I have looked at a number of programs which the law society sponsors, functions and makes work. It seems to me they go beyond what you have said this morning.

The mentor program is an example where you try to get around a perception that when people get legal aid you get the junior counsel of a firm, you do not get the senior one. It would seem to me that was a step in that direction.

Another is the hot-line program you run, all the informational programs you run, brochures you put out. It would seem to me that all of those things sponsored by the law society, and the clinics where you are participants, are areas that you are addressing as not just the role of the profession but the provision of legal services to the public out there. You are trying different techniques where it seems to fit into your definition of what a law society does.

Mrs. Legge: That is correct, Mr. Breaugh. That is our function. It is to see that the public is served, and all of those things that you have mentioned are programs we have developed to assist the public.

Our mentor program is to see that the people who have legal aid are getting the best advice possible. Our brochures are to inform the public, to let them know what is available.

Mr. Ground: I think maybe I am missing your point. The assurance of legal services being available to all members of the public, and information about the law being available to the public, we see as part of our function and not inconsistent with our role as a governing body. In fact, it is part of our role as a governing body. But to take a position on whether the grounds for a divorce ought to be changed is not our role, as Mr. Jarvis explained.

To take a position as to how the inquiry into the Hospital for Sick Children ought to be run is also not within our appropriate area of operation.

I am not sure what your concern about that inquiry is. I think your concern is the cost. There has been a lot of press about the counsel fees involved in that inquiry.

Mr. Breaugh: That's part of it, yes.

Mr. Ground: If that is your concern, I think one thing we have tried to do is to provide some information on how lawyers' fees are determined and say that you should, on your first meeting with the lawyer, discuss fees.

Some of our dialogue tapes and some of our brochures explain how fees are established. County and district law associations publish lists of what a normal fee is for particular types of transactions. I do not see how we can go beyond that in the area of things such as the Sick Children's Hospital inquiry. I do not see where you see a role for the law society in that.

Mr. Breaugh: What I am really trying to get at is there seems to me there is a basic conflict here. In your replies this morning you reflect that conflict. On one hand, you are a noble agency serving the public and, on the other hand, there is a professional group at work here.

For example, an obvious conflict is that the law society is now active in 40 different communities in setting up legal aid clinics. As a professional governing group you probably hear a lot of people saying quietly: "Do not do that in my community because you are my professional group. You should be promoting the use of individual lawyers. I pay you money to help me make money and govern my profession, not to set up a legal aid clinic across the road which might, in effect, turn out to be my competition."

Mrs. Legge: Mr. Breaugh, that is exactly my point. We are not a union for lawyers in spite of somebody saying that we are the strongest union in the province. We do not see ourselves in that light.

Mr. Cassidy: The doctors have that one.

Mrs. Legge: Oh, yes, they have that.

11:30 a.m.

Mr. Breaugh: I think you are only number two.

Mrs. Legge: We do not see ourselves in that role. I say that, and I have not got a halo around my head; this is a fact, and if you were down at Osgoode Hall you would understand it. We see ourselves as making certain that we have a competent, educated profession to give service, and if the clinics are the best way of giving service to the public, too bad about the lawyer across the street.

We are sorry, but we cannot see ourselves in the role of being a union for lawyers, and I tell you honestly that many of our members out there are quite unhappy with us about this. But we think we must have as our most important function the provision of legal service to the public. It may sound very grand, but it is true. If we are going to maintain our rule of law and our democracy, then we must have a profession that is concerned primarily with service to the public.

Mr. Breaugh: One area I wanted to explore other than the legal aid stuff is advertising. I am always taken aback when I go to the United States and see their approach to this profession. I think my favourite ad is one that runs out of Rochester now about friendly divorce. There is some legal system over there that actually runs 30-second advertisements on television now with two charming people who are obviously madly in love but want to get a divorce. There is a legal firm in Rochester that specializes in friendly divorces now. I have a little trouble with that.

I think it was Mr. Ground who said previously that you do not really ban advertising, you regulate what they can do. I welcome the law society's efforts to try to provide information to the public on what legal firm to go to if you have this kind of case, because that is often a problem in many communities. People see lawyers as being like doctors, except they do not refer you to specialists. You could very often go to somebody who is a very good lawyer in a particular aspect of the law but has never done criminal law, for example. So you cannot really go to your family lawyer if your son gets into big trouble with the law.

Could you go at that again about what is the purpose of regulating advertising?

Mr. Ground: I should say to start that this subject is before the law society right now and there is a report coming to convocation, which is where all the benchers meet later this month. Two things: The law already deals with false and misleading advertising. The Combines Investigation Act deals with that; it applies to legal services as it applies to motor vehicles, so there is that, if you like, criminal sanction that applies to all advertising.

Beyond that, I think it is our feeling there are essential things that the public should know and that it is of value to the public to know about lawyers, such as the initial consultation fee, what areas they practise in, the languages they speak. This sort of thing we now permit.

When you go beyond that you get into comparative advertising, where I get on television and say, "I am the best little corporate lawyer in Ontario. Come to me." We think that is unprofessional. We do not think comparative advertising can be established. We think it is inappropriate and only for the benefit of the lawyer, that it is of no benefit to the public.

The only other area where there is an argument is in the price advertising area. There is a feeling among some groups and among some members of our profession that price advertising is a good thing and we ought to permit it, that it gives valuable information to the public.

I personally do not happen to agree with that. I think price advertising is useless at best and misleading at worst. I just do not think it gives the member of the public any useful information. I think he gets much better information by going to the lawyer's office and discussing with the lawyer what his fee is likely to be and how it is calculated, and lawyers have an obligation to enter into such a discussion with every client.

In the United States they have, for constitutional reasons, the freedom of speech sections of their constitution, absolute freedom to advertise in whatever way they see fit. Some jurisdictions in Canada have given complete freedom to advertise. Manitoba is an example. I do not know about your firm in Rochester, but the interesting result is that a very minimal percentage of law firms advertise. The results from any surveys we have been able to see is that most members of the public do not think this type of advertising, or the fellow in Detroit who comes out of the swimming pool and offers you a free bicycle if you come to his firm, is of any benefit whatsoever to the public. We have seen no evidence to indicate that there is a public service, a public need, to be fulfilled in expanding advertising beyond what is now permitted.

Mr. Breaugh: Is this a matter of good taste or is there more to it than that?

Mr. Ground: No, I think it is a question of what is of value to the public. We cannot see, we cannot be convinced, that permitting people to throw up signs or hand out cards saying, "Divorce, \$200," is of any advantage to the public.

Mr. Breaugh: So we are not going to see the law society allow a kind of one-stop shopping at your local shopping centre as the dentists now do, I understand.

Mr. Ground: There are law firms in shopping centres.

Mr. Breaugh: Yes, but you do not have the kind of referral through Simpsons-Sears to come into your law firm and use your Simpsons card and all that.

Mr. Ground: No.

Mr. Breaugh: What would stop somebody from doing that kind of advertising approach, a kind of Bargain Harold's of the law society? What would you do to stop it? I assume you would get a complaint from some other lawyer.

Mr. Ground: I am not quite sure I understand.

Mr. Breaugh: If someone decided to advertise. I understand there are people who come pretty close to doing that, like putting boards next to windows that advertise prices for various legal services. If you put the board outside and put a neon sign on it and some other lawyer complained about that process, what would happen?

Mrs. Legge: We would call him in and invite him to remove it, and if he did not, we would probably have him in before the discipline committee.

Mr. Breaugh: You'd make him an offer he couldn't resist.

Mrs. Legge: Precisely.

Mr. Ground: That was exactly the Jabour case, which the treasurer referred to earlier.

Mr. Breaugh: So there are internal sanctions. What if some bright young lawyer challenged that?

Mr. Ground: Mr. Jabour is a bright young lawyer who challenged it.

Mrs. Legge: He took it right up to the Supreme Court of Canada.

Mr. Breaugh: What happened there?

Mrs. Legge: Mr. Justice Estey said in a landmark decision that the law society had the authority to regulate advertising of its members.

Mr. Rotenberg: Authority we gave it.

Mrs. Legge: You gave it; that is correct. You are absolutely right, Mr. Rotenberg.

Mr. Breaugh: Well, I didn't, David, but others before me.

Mr. Rotenberg: You and I didn't, either. It was--

Mr. Cassidy: I think you are trying to lump us in with your decisions.

Mr. Rotenberg: Back in 1872 I don't think it was us, either.

Mr. Breaugh: I have some other areas around the legal clinics, but if you would like, I can leave that until this afternoon.

Mr. Cassidy: May I just ask one brief supplementary about that? In the case of the young woman lawyer who has got an office on Bloor Street and downtown, there are no neon lights, but the sign is very clear, as you know. It is right inside the window in a way where it is visible in a very high-traffic area to people passing by, and the rates are there.

Mr. Epp: Are you reporting her?

Mr. Cassidy: It is well known. She gets in the papers from time to time. I cannot remember her last name.

Mr. Ground: Her name is Jane Harvey.

Mr. Cassidy: That's right, yes.

Mr. Ground: She gets an unusual amount of press, possibly because of her connections. We have had discussions with her about the sign; she has come to us. What she is doing is technically within the permitted rules because it is within her office premises.

Mr. Cassidy: In other words, it is ethical then for any lawyer, whether it is right inside the front window or whether it is just in the waiting room, to put up a tariff and fees that everybody can look at. Is that right?

Mr. Ground: Within one's premises, yes.

Mrs. Legge: Isn't that in your report that is coming before convocation, Mr. Ground? We are dealing with this very problem, Mr. Cassidy. It is before us at present.

Mr. Breaugh: One of the things I think you might be faced with in the foreseeable future is that I am told there are now a large number of young lawyers starting out having some difficulty getting established, so what may be a theoretical, tasteful argument right now, very shortly might not be. They might decide that the route to get established in a law firm is to do just that: do cut-rate tariffs, do a little more advertising and put a little pizzazz into it.

I am told, at any rate, that there are now lawyers in my region who have applied for social assistance, which I must say is rather a remarkable change from previous years. At some point they might decide not to be quite so tasteful about it all and challenge.

11:40 a.m.

Mr. Ground: I think that is quite likely and it is a developing area. Over the years we may be able to develop ways of giving price information that is not misleading, and if so, I am sure the society would have no objection, but it is a developing area.

Mr. Rotenberg: I want to pursue some of the workings of the law society. I accept what you say that in your opinion you are there to serve the public interest, but the members of the public may or may not agree that you are serving them well.

Mr. Conway: Here is your chance to get even for your treatment on the Thom commission. That was a lawyer, wasn't it?

Mr. Rotenberg: That did not bother me.

Mr. Conway: Not now.

Mr. Rotenberg: Not then either. I think I did better than he did, but that is beside the point.

Interjection.

Mr. Rotenberg: He was only a lawyer.

Interjection.

Mr. Rotenberg: Seriously, Madam Treasurer, we talked originally about discipline and disbarment. Whenever we talk about that, it seems the vast majority if not the total discussion is on

theft, absconding with funds, fraud--on money. We read of disbarments in the paper. We always see that So-and-so was disbarred for taking so much money from his trust fund or a client lost so much money to the lawyer.

First, what I want to really ask you is how you deal with complaints other than money complaints, particularly with complaints of incompetence or of violation of the solicitor-client relationship; that is, the lawyer may be improperly revealing matters that have been given to him confidentially, which maybe is more open and shut. Incompetence, I imagine, is a very difficult thing to define.

How do you deal with them and what is the percentage of your complaints? And at the other end, what percentage of those who are disciplined would be for fraud and money matters and what percentage would be for other matters?

Mrs. Legge: I cannot give you the exact percentages but I can tell you that we do deal with lawyers for incompetence. In the past year I have sat on a discipline hearing where the lawyer was charged with incompetence. I do not recall whether he has been disbarred or whether he has been up before convocation yet, but the charge against him was incompetence. I believe we have had some cases where they have come in, they are obviously incompetent, we have had a hearing, they have agreed to resign from the society and to stop being members, which is fair enough.

I sat on one infamous case that went on for three or four days where the charge had nothing to do with fraud. He was a very honest lawyer in his practice, but we found his moral conduct was reprehensible. There had been a lot of publicity and we felt this was not the sort of person we wanted in the profession serving the public. That was appealed to the Supreme Court of Canada, and all the way up the courts concurred with our finding that this person was not the sort of person who should be in the legal profession.

We do have other complaints, Mr. Rotenberg, other than fraud.

Mr. Rotenberg: This is a difficult question. Could you give me the type of thing you would consider incompetence?

Mrs. Legge: Yes. In the one we had, there were 50 complaints or something all of a sudden. The fellow had not been in practice very long. People were writing letters, as Mr. Breagh said, saying that he did not close their real estate deal on time, he did not do something else on time. We immediately started to investigate and this is what we found. Or we might find a lawyer who has had too many errors and omissions claims.

Mr. Rotenberg: What you are really saying is that incompetence has to be more than one incident; there has to be a pattern of them, a series.

Mrs. Legge: I think that is fair in any profession. We are all human and we all make one or two mistakes, but if it is repeated, then it is--

Mr. Conway: Only politics.

Mr. Rotenberg: Let me pursue that if I may. Say I am a member of the public and I go to a lawyer to handle my case, and the lawyer handles it in what you and I might both consider to be an incompetent way, but that might be the only complaint the law society has about that lawyer's competence.

Mrs. Legge: If the person has suffered a loss, we have negligence insurance. This is a whole other field and that person can--

Mr. Rotenberg: How does one get to the lawyer who has been negligent to get his negligence insurance? Do you have to sue him? Do you handle it, or do you have to have a civil suit?

Mrs. Legge: No. They make a claim to our insurance director, who looks at it, and if we can settle it, we do. Most of them are settled.

Mr. Rotenberg: Let me give you an example of something that someone complained to me about. I am just wondering how you would consider it.

In a civil case a person is being sued; he goes to his lawyer--I know hypothetical cases are difficult--and outlines the facts of the case. He says, "I have witness A and witness B and this is what they will say on my behalf." Witness A is interviewed by the lawyer and witness B is not interviewed by the lawyer. When they get into the court, the lawyer does not get around to calling either witness A or witness B and loses the case. In that scenario would that be something that might be at least considered by your society to investigate for possible negligence?

Mrs. Legge: Certainly it would go to the errors and omissions department for investigation of negligence, and if there was negligence, the client would be compensated. That is separate from the discipline hearing.

Mr. Rotenberg: Yes.

Mrs. Legge: If it were a matter of judgement on the part of the lawyer it is very hard, unless you are the lawyer in court, to know what he felt was in the best interest of his client; the lawyer is running the case and it is a matter of his judgement.

Mr. Rotenberg: Is your negligence committee prepared in effect to second-guess that lawyer on a complaint of a member of the public?

Mrs. Legge: Yes, they are. They do it all the time and they pay out money.

Mr. Rotenberg: You did not answer my question. Approximately how many of your discipline cases are in the fraud section and how many are in the incompetence area? Just a rough estimate.

Mrs. Legge: Do you have any idea, Mr. Dick?

Mr. Dick: There is no breakdown for this. The great majority relate to the keeping of accounts.

Mrs. Legge: Yes, right.

Mr. Rotenberg: Now I want to get into your discipline system. You mentioned Mr. Sherriff, who I understand is fairly new as the head of your discipline investigation or prosecution.

Mrs. Legge: He has been there for what, two years?

Interjection: Yes.

Mrs. Legge: Yes, one year.

Mr. Rotenberg: If I am a member of the public and I come in to complain to the law society and get to see Mr. Sherriff, and I give him my complaint against the lawyer, who is a member of the law society, how do you assure--not from your own point of view, because I am sure you do, but in the minds of the public--how do you assure in my mind as the complainant that Mr. Sherriff is totally at arm's length from the law society and from the person I am complaining about? In other words, he is somehow independent of your system, yet he is an employee of your system; how is the public out there is assured that when they complain to your discipline section, that discipline section is not part of the system but is in effect prosecuting the system?

Mrs. Legge: But it is part of the system, and it is the whole system that is independent of the person complained against. The whole system of the law society is set up--if I may repeat--to see that the public is served. We do not have to say that Mr. Sherriff is independent of the law society system, because the whole of the law society is concerned to see that a lawyer who deserves to be disciplined is disciplined.

Mr. Rotenberg: In other words, you are saying that your whole setup is there really at arm's length from your members.

Mrs. Legge: Exactly.

Mr. Rotenberg: You do not mind me using Mr. Sherriff's name because you brought it up. When Mr. Sherriff goes to a discipline committee hearing or to a complaints review committee hearing pursuing a complaint, is he the lawyer for the law society or for the complainant?

Mrs. Legge: He or one of his deputies, and on occasion we hire outside counsel, is the lawyer for the law society, which is actually the prosecutor.

Mr. Rotenberg, if you could ever sit in on one of those discipline hearings, you would feel sorry for the member of the society against whom the complaint was made if you had Mr. Sherriff as the prosecutor.

Mr. Rotenberg: I know Mr. Sherriff and I am very happy with his attitude, but again when you have either a discipline

committee hearing or complaints review committee hearing, the complainant is present at the hearing?

Mrs. Legge: That is correct.

Mr. Rotenberg: But Mr. Sherriff in effect carries the prosecution?

Mrs. Legge: Correct.

Mr. Rotenberg: Can the complainant bring his own counsel who can also cross-examine, question the lawyer and take care of the case if the complainant is maybe not quite satisfied with the way your own person is carrying the case?

Mrs. Legge: We have never had that complaint, strangely enough. We have never had a complainant who has not been satisfied with our prosecution, not to my knowledge. Have we ever had?

Interjection: I do not know of one.

Mrs. Legge: I have never heard of it.

Mr. Rotenberg: With respect, you have not answered my question.

Mrs. Legge: I do not know. We have never had the problem arise. No one has ever asked.

Mr. Rotenberg: Within your rules, and you must have rules, can a complainant come with his own counsel? In this scenario I would imagine the lawyer who has been complained against may give evidence on his own behalf and Mr. Sherriff would question him as your prosecutor. Can the complainant himself or the complainant's lawyer or the complainant's representative also question--within your rules--the person being complained about?

11:50 a.m.

Mr. Ground: The rules do not provide for that, because it is analogous to a criminal proceeding. If you lay a complaint against another member of the public, the crown attorney prosecutes that complaint. You do not hire your lawyer and go to the criminal courts to prosecute that complaint. You do not have any status there. Similarly, with a complaint against the member of the profession, the society prosecutes that complaint. Mr. Sherriff or one of our other discipline counsel acts as counsel for the society.

The citizen, the client, may have his own action against the lawyer for negligence, in which case, of course, he would hire his own counsel and sue the lawyer, or settle it through the insurance system Mrs. Legge referred to. But the client who complains about the lawyer to the society has no more status to go into that proceeding with his own lawyer than does the member of the public who lays a charge against another member of the public.

Mr. Rotenberg: With respect, I think there is a little bit of a difference between laying a theft charge on someone who comes into your house and steals your TV set and laying a charge against a lawyer whom you think you have been hard done by. Maybe it is more perception than reality, but if a member of the public feels that maybe your counsel did not ask the right questions on something he wanted to bring out, does he have to sue the lawyer severally in order, in effect, to cross-examine him?

Mrs. Legge: No. The hearing before us, Mr. Rotenberg, is in effect a quasi-criminal thing; it is a hearing that might deprive that lawyer of his livelihood, and frequently does when it gets to the situation of having a hearing before a panel of benchers.

The complainant has nothing to gain whether that lawyer is disbarred or not disbarred. He is not losing any rights. If he has lost any money, he has his civil action against that lawyer which is quite apart from the law society. He can sue civilly. If a lawyer has defrauded him, that person can come to our compensation fund to be reimbursed. It is a complaint before the discipline committee and has only to do with the disciplining of that lawyer, just as a criminal in the dock, whether he is sent to jail or not, is not going to benefit or hurt or help the complainant.

Mr. Rotenberg: Maybe my perception is wrong, but if you discipline a lawyer and disbar him, it would seem to me that might give the complainant some sort of a leg up when he gets into the civil court.

Mrs. Legge: No, not at all.

Mr. Rotenberg: Can the evidence that is before your complaints review committee be subpoenaed to a civil trial?

Mrs. Legge: Oh yes, it can; of course.

Mr. Rotenberg: Are the hearings before your disciplinary committee in public or in private?

Mrs. Legge: They are in public if the lawyer against whom the complaint is made wants them in public. They can be in public. We are subject to the Statutory Powers Procedure Act.

Mr. Rotenberg: Can it be in public if the complainant asks it be in public?

Mrs. Legge: I do not know. Can it? I am not that familiar with the act. Can it be, Mr. Dick? You should know.

Mr. Dick: Under the Statutory Powers Procedure Act, they are all required to be in open form unless the tribunal itself, for stated reasons, has it closed. If the claimant asked, it would be considered. The balance then is whether or not it is in the best interests of those whose rights are affected to have it, and the tribunal will decide; so the panel would decide.

Mr. Rotenberg: You have your complaints review committee, which is a more informal procedure.

Mrs. Legge: What happens, if I may just outline it, Mr. Rotenberg, is first of all a letter is written and there is a complaint made. It is looked at by the civil service, if I may say, of the law society.

Mr. Rotenberg: Maybe Mr. Jarvis, Mr. Sherriff or someone like that?

Mrs. Legge: Someone like that.

They write a letter to the lawyer. In I suppose 90 per cent of the cases, the person complaining is satisfied. If he is not satisfied with the disposal, then frequently we will rectify the matter about which the complaint has been made. If he is not satisfied, he can go to this complaints review committee, which is an informal committee of benchers.

But if we decide a complaint should be laid, that is an entirely different matter. Then he comes before a panel of benchers and we have a prosecution, literally, of the member.

Mr. Rotenberg: Your complaints review committee, which in effect--a member of the public lays a complaint for some reason--

Mrs. Legge: No. He does not lay a complaint. We lay the complaint.

Mr. Rotenberg: I am sorry.

Mr. Sheppard: He complains.

Mrs. Legge: He complains.

Mr. Rotenberg: He complains; if for some reason your civil service or whoever decide not to pursue it, he goes to the complaints review committee.

Mrs. Legge: Yes.

Mr. Rotenberg: Is that under the Statutory Powers Procedure Act?

Mrs. Legge: No. That is just an informal complaints review that we have set up.

Mr. Rotenberg: So in effect the member of the public comes to appear before the committee and says why he wants this matter pursued.

Mrs. Legge: That is correct.

Mr. Rotenberg: I assume in that case the member of the public can bring his own counsel if he wishes to to serve him--

Mrs. Legge: Oh, yes.

Mr. Rotenberg: --or a representative who is not a lawyer.

Mrs. Legge: Correct.

Mr. Rotenberg: There are just two other matters I want to pursue.

Mr. Rotenberg: There are just two other matters I want to pursue which are separate from that situation. Section 50 of your act gives you a monopoly; a person who is not a member of the law society cannot hold himself out to be a lawyer.

Mrs. Legge: Is that the Solicitors Act?

Mr. Rotenberg: It may be the Solicitors Act. I read section 50 here which is a prohibition. It might be in the Solicitors Act as well, but I think it is all part of your situation.

My understanding is that a person can have what I think you always call an agent, not a lawyer, who can represent him in certain lower courts. In certain higher courts only a member of your society can represent a person. Where I think the public might have a valid complaint with that situation is where a person, for whatever reason, has not got a lawyer and cannot get a lawyer. Of course, you have a legal aid system set up where a person goes to legal aid. But there are situations where legal aid for whatever reason, rightly or wrongly, turns down the application for legal aid and the person does not get a certificate.

That member of the public, be he a defendant or someone who is suing, or a defendant in a criminal charge or a civil charge, whatever, if he wishes to pursue this matter for whatever reason, he then goes into court without anybody helping him because he cannot get a lawyer, because a lawyer will not take his case or he has no money, or legal aid has turned him down. Let us say that person may be not too well educated or is not too well versed in the English language, or simply cannot get up and present his case because he cannot speak in public.

Why should that person then be prohibited from bringing a friend, or maybe his member of Parliament or someone like that who is not holding himself out as a lawyer, who is not charging, but simply wants to go as an agent to assist a member of the public before a court higher than the small claims court, the traffic court or wherever agents can go?

If I may make an analogy, in the medical profession, where only a doctor can practise medicine, no matter what the complaint a person has from a medical point of view, if he cannot find a doctor, there is always the emergency ward at the hospital; there is always somewhere he can go to get medical attention.

I suggest that under the way you are set up--and I think it is within your law society--there are situations where a person cannot get legal attention and yet he is prohibited by law and by at least one section of your act--because if I went to the divisional court representing a constituent, the judge would probably throw me out and would not let me talk; but if I did, I am subject, according to your act, to a \$1,000 fine for practising law without a licence. Do you think that is a fair situation, or is there some remedy for that situation?

Mr. Jarvis: I think you have to start with basic principles. The reason for licensing bodies in any profession is to provide a core of properly trained people who have the hallmark stamped on their forehead that they have passed the exams and they are subject to control, and the public need to be able to identify them. That is the basic, hard, rock-bottom position.

You are moving out into a fringe when you say that a person should have the right to go outside that. They say: "Fine. I may know that I would be better off with somebody who had all this training and this control, yet I want the right to take somebody that I simply want, regardless of their training."

It is a matter of public policy. The Legislature has decided that there are some areas in which people are not their own best counsel and that they should be protected from their own thoughts in these matters. A person who might want somebody--I would not say you, Mr. Rotenberg; I would not dare--but somebody of their--

Mr. Rotenberg: I am not competent to represent a person but maybe more competent than the person to represent himself.

Mr. Jarvis: That may be, but I would say several things about that. First, we should not confuse the general principle with the particular position of a person who finds himself needing a lawyer.

Mr. Rotenberg: If I might interrupt, Mr. Jarvis, I agree with your general principle. The scenario I set out is if an agent went to represent a person, I think the law should be that the agent cannot charge any fee for so representing him. That is also a safeguard, and I buy that too. I accept all that part of your philosophy. But how do you get to this particular person who has a case in divisional court? He thinks he has a case and he cannot get a lawyer and legal aid has turned him down for a certificate. What does he do?

Mr. Jarvis: I would say it is a rare case indeed where a person cannot find a lawyer to represent him at all, unless lawyers have looked at it and said: "You should not be going to court. You have no case." In that case, they may go to another and they may or may not find someone who is ready to represent them. But I think it is a rare thing indeed for a person who has a good case to be unable to find a lawyer who will take it on.

12 noon

Mr. Rotenberg: What if the person has no money?

Mrs. Legge: It does not matter.

Mr. Jarvis: If he has no money he surely qualifies for legal aid.

Mr. Rotenberg: I know of a particular case.

Mrs. Legge: Mr. Rotenberg, if that person looked he would find a lawyer who would still be prepared to go for no money and no legal aid. We all are still doing it, believe it or not.

Mr. Rotenberg: With respect, I think you may not find that is correct out there in the public.

Mrs. Legge: I am out in the public. I am practising law. We still have a percentage of the work that is done in our office, and I think in every office, which is done for nothing. If you have an impecunious client who for some reason does not qualify for legal aid, there are still lawyers who will see they are protected.

Mr. Rotenberg: Then if you take that position I accept it because I have to, but there should be a backup for the legal aid system where a person is turned down for legal aid. There should be a list of lawyers so that person can go to them and say: "I am stuck. I have this court case and I need a lawyer." As I said, there are people out there who get stuck.

Mrs. Legge: I think if he called the lawyer referral service they would find some lawyers who would see he was looked after. What is more, if he has a good case, and he has no money, and he goes to a lawyer through the lawyer referral service, that lawyer can go and make a representation to legal aid that this person should be helped.

As Mr. Jarvis pointed out, there are frequently people who are convinced that they have a very good case. I have had one in the office within the past three months. I do not know how many lawyers he had been to see. I spent two or three hours looking at it. He has no case at all, yet he is determined to go to court. I have a responsibility to the court that I am not supposed to go where there is a spurious claim. That is all this fellow has but, in his mind, he has a great case. Those cases are not infrequent.

Mr. Rotenberg: He has the right to go to court; it is up to the judge to decide.

Mrs. Legge: That is fine, but I have a duty as a lawyer not to go to court with a frivolous action.

Mr. Rotenberg: With respect, that person wants to go to court. What to one person is frivolous--some are very frivolous and there are some grave ones, possibly. But if that person wants to go to court, and thinks in his own mind he has a good case, he should have access to the courts. I think you would agree with that, no matter how frivolous his case is.

Mrs. Legge: No, I do not agree with you. I do not think frivolous actions should be before our courts, not at all. You have even passed an act in your Legislature, Mr. Rotenberg, the Vexatious Proceedings Act, which is designed to prevent frivolous actions before the courts.

Mr. Rotenberg: There may be--

Mrs. Legge: It is one of our responsibilities as lawyers to look at cases. We are not supposed to take frivolous actions, nor to promote them.

Mr. Rotenberg: But you could have cases out there where a person may have--let us say it is not a frivolous action but it is a case where, because he has no money, he cannot get a lawyer and legal aid does turn down people for certain reasons. My question simply is, why should not that person be allowed a friend go to court with him, hold his hand and make representation on his behalf, not making himself out as a lawyer, not charging a fee but simply discussing--

Mrs. Legge: With all due respect, if he has a case and it is a legitimate case, I am certain he can find a lawyer. If he is going to go to court with a friend who is not a lawyer, then he should not be going. I would not go to court representing myself. No lawyer present in this room today would. I am sure they would tell you so. I am certain that if he has a good case, he can find a lawyer. I am satisfied with that.

Mr. Rotenberg: What if he does not have a good case but just sort of a medium-good one?

Mr. Ground: I am sure that if he had a prima facie case, and if he is not eligible for legal aid--if he is eligible for legal aid, he can certainly get legal aid. If a mistake is made first time around, he can get someone to represent him to get him a legal aid certificate. If he has gone through the lawyer referral service, if he has gone through a community clinic, I find it very hard to believe that if the man has any case at all he simply cannot find a lawyer. This is a most unusual situation or gentleman you are talking about.

Mr. Rotenberg: I have one other question on the law society. I think Mr. Dick can answer this, because it is something in his line. It is under section 13 of the act.

"The Attorney General for Ontario shall serve as the guardian of the public interest in all matters within the scope of this act or having to do with the legal profession in any way, and for this purpose he may at any time require the production of any document, paper, record or thing pertaining to the affairs of the society."

Is that ever used? Under that section of the act, has the Attorney General at any time intervened where a person applying to the law society has not been served properly in his opinion?

Mr. Dick: Answering from past experience, it does not have to be. The purpose of putting it in in the first place was that one person would be singled out, and logically it was the law officer, to be aware of what was happening with respect to the law society, the legal profession and the public served by it.

In that context, the legislation respecting the law society is under the aegis of the Attorney General. He has access to all the information--all the files, whatever--that rests with the Law Society of Upper Canada in respect of any matter. Any time he has ever inquired of it has been in the nature of virtually that, an inquiry. All the information and so on that he needs is provided. Discussions are held on whatever point. We never had, in my

experience in all those years with that ministry, the necessity to sit down and have anything formal about it. By the very nature of his office and the law society and the relationship, his concerns were made very apparent very easily.

Mr. Rotenberg: What I am asking about is the informal situation. Does the Attorney General intervene from time to time on complaints or whatever, and what is the type of co-operation he gets from the law society?

Mr. Dick: Since I have been there--not because I previously (inaudible) that, because of my new occupation--I have had two letters from the Attorney General in which people have raised things from his office, and to his office, in which he had responded to them. He indicated that he would pursue them, that it was the responsibility of the law society. He then sends them to the law society, we pursue them and we respond back to the Attorney General.

Sometimes, in the case of members of the Legislature, it proceeds the same way. But in the matter of specific complaints, that would be my experience with it. It is what we have always done with the law society.

On matters of a broader interest, aspects of the administration of the affairs of the profession and everything, it is usually done through that and by virtue of the fact that he is ex officio, by virtue of his office, a bencher of the law society, which gives him every opportunity that any bencher has.

Mr. Rotenberg: That is all the questions I have, Mr. Chairman.

Mr. Chairman: Thank you. Mr. Epp, do you wish to continue now and break off after a while, or do you wish to go this afternoon?

Mr. Epp: I do not think I will be very long but it is up to you, Mr. Chairman.

Mr. Chairman: Fine. Then maybe we will carry on and break at the end of your questions.

Mr. Epp: Thank you. I just want to get into the subject of taxing. Mrs. Legge, could you explain the procedures with respect to bills being taxed when people have complaints that the bills they have been given by the lawyers are excessive?

Mrs. Legge: Yes. There are two facets to that. The taxing master is a master appointed by the Attorney General. He is a master of the Supreme Court of Ontario. He is at 145 Queen Street West. He is an employee of the Attorney General of Ontario. Any person may take a solicitor's bill to the taxing master for it to be taxed. If someone telephones the law society and says, "My lawyer charged me too much," we tell them where to go and what to do. And they can tax their own accounts; they do not even have to have legal representation to tax accounts.

Interjection: And throughout the province.

Mrs. Legge: Yes, it is the same throughout the province; that is correct. But if the people tell us they have received bills that they feel are unconscionable, and the taxing master frequently will refer them through to us, then that is a matter of complaint by the law society. We do lay complaints against the member, we have the member in and we discipline him if he has overcharged.

Mr. Epp: Are those both in civil and criminal cases or are they irrespective of--

Mrs. Legge: They are irrespective; that is correct. Every person may go to the taxing master to have a bill taxed.

Mr. Epp: Where does the society come in? I am not quite clear on that.

Mrs. Legge: The society only comes in if it is an unconscionable bill; then we will have a complaint laid against that member and he will be before the discipline committee.

Mr. Ground: Excuse me for interrupting, but it should be said that even though it is an officer of the court who does the taxing, it does not have to be a bill that has arisen out of a court matter. It could be a bill for a real estate deal, a corporation or anything. Any lawyer's bill can be taxed.

12:10 p.m.

Mr. Epp: I have read about a few of them where they have changed, but in particular I remember a case of a lady in my riding who went through a divorce proceeding and, in fact, her husband, from whom of course she was getting a divorce, was a lawyer. The proceedings went over two years and she got a bill for \$42,000 for getting a divorce. Then she had it taxed and it was reduced to \$39,000.

I felt it was bloody unconscionable. Even at \$500 a day, which is \$300 a day below what Donald Macdonald gets and \$400 a day below what this fellow from the Ministry of Government Services gets, if a lawyer were to charge \$500 a day, he would have to work almost 90 days or something similar for that. I doubt over the two years that he worked 90 days on this one divorce proceeding. He was charging \$42,000 and they reduced it to \$39,000.

Mrs. Legge: I cannot speak for the taxing master. He is an official of the Attorney General's ministry and he must have been satisfied.

Mr. Ground: One thing they do look at is your time records and your hourly charge and how you determined your fees.

Mr. Epp: How can this woman then say he did not work that many hours on it because there is no bloody way in her mind that he ever worked those many hours on that case.

Mr. Jarvis: Two things: I do not know what the case is, and I am only guessing, but it may have been a very difficult

matter and there may have been others in the firm involved, but one thing I do want to throw in is that you can appeal from the certificate of a taxing officer, you can appeal up to the court, so it does not necessarily stop there.

Mr. Epp: Appeal to the--

Mr. Ground: After the taxing master has finished with you and says, for example, you have to pay \$39,000 instead of \$42,000, if you do not like that, you can appeal from his ruling up to the court.

Mr. Epp: And you have to get another lawyer to appeal that.

Mr. Ground: Yes.

Mr. Epp: This is where we get the perception part that Mr. Breagh touched on earlier. The perception part is that it is going to be difficult to get a lawyer to appeal another lawyer's charge because, in fact, lawyers--and I am a teacher--or doctors or real estate agents or insurance people try to protect their own. There is no way.

Mrs. Legge: They don't.

Mr. Ground: It really isn't so.

Mr. Epp: Lawyers want to keep the fees up there, the same thing as other people. I am just singling them out in this particular instance, but they want to keep the fees up there and, in fact, it is to their benefit not to have that thing reduced to \$15,000 or \$10,000 which I, as a layman, thought would have been more in the realm of reality and fairness rather than the \$39,000 which she ended up paying.

Ms. Legge: Mr. Epp, it is a perception that is unfortunate if the public has it because it really is not so. I think that every lawyer in this room knows that we report another lawyer just like that if we think there is any suspicion of misconduct. We are very keen and always have been. From the time I have been in practice I have known that a lawyer will report you faster than a member of the public because frequently we are the ones who become suspicious. It is right in our rules of practice, in our rules of professional conduct.

We have an obligation. As a matter of fact, recently, within the last two years, there was a lawyer charged with a complaint and he had to come before the disciplinary committee because he did not report another lawyer.

Mr. Ground: Also, Mr. Epp, to be totally selfish, I think it would be in the interest of the profession if that bill had been reduced to \$15,000 because if the public gets the impression that it is going to cost them \$39,000 to get a divorce they are not going to go near a lawyer. I do not think it is in our interest to have highly inflated, unconscionable fees.

Mr. Epp: If she was not happy with the taxing master who made the decision, then she could have appealed to which court?

Mr. Dick: A single judge of the High Court.

Mr. Epp: And then they would hear it at that level. What are the chances of having that overturned?

Mrs. Legge: I do not know. That is not in my field of practice.

Mr. Epp: You might be able to cite me a case in a thousand that has been overturned and so people may not even go there.

Mrs. Legge: The taxing master frequently taxes accounts down.

Mr. Epp: Yes, but I mean beyond that, appeals beyond that.

Mr. Guthrie: Mr. Epp, you will perhaps recall that in your community there was that firm of lawyers which had an estate which was allowed at the taxing master level a rather large sum. It went to a single judge and it was cut down by almost half. It was an estate matter. That is very common.

Mr. Epp: In this particular case I just felt the woman was really being taken. There was some money in the selling of the house, etc., but she almost had to start from scratch after that. That is why people often feel because there is money in a house and a house is worth \$100,000 or \$125,000, she has got the money, she is going to get half the house, the house is paid for, so why worry about it. So they take the money from that "innocent person." Maybe she should have appealed it further but she did not.

Mrs. Legge: Probably if she laid a complaint to the law society. Of course, we cannot second-guess the taxing master, but we do look at unconscionable bills. I can tell you I have sat on discipline hearings where we have looked at them and disciplined the lawyer.

Interjections.

Mr. McLean: You indicated that in several cases they are reduced. Is it a very common occurrence that a lot of them are reduced?

Mr. Guthrie: It is not very common, but I have seen them reduced, yes.

Mr. McLean: I thought you said it was a common practice, that there were several. Really what you are saying then is a lot of time the people in this province are being overcharged. Unless they go to the taxing master, they just pay it and say nothing.

Mr. Guthrie: I do not think that follows.

Mrs. Legge: I do not think so.

Mr. McLean: If they are being reduced quite commonly, then it is an indication to me that they are being overcharged.

Mr. Guthrie: Mr. Chairman, I do not think I have had more than half a dozen bills taxed in 25 years and I suspect the rest of us here are in the same position.

Mr. Epp: Can I just get on to something else which comes out of this and which was touched on earlier. This has to do with complaints. What kind of confidentiality is involved? For instance, if I as a lawyer were to complain that my partner or somebody else in the city or community was overcharging or was incompetent or something of that nature, does anybody ever find out that I laid a complaint? What kind of confidentiality is involved in that?

Mr. Jarvis: It depends on how you do it.

Mr. Epp: Provided I do not go around telling everybody I wrote the letter.

Mr. Jarvis: That is right. If for example you as a lawyer in a community wanted to complain against another lawyer and did not want it revealed that it was you who had laid the complaint, then the complaint could be investigated without revealing that.

Normally, lawyers are not shy about this. They will write in and they will say: "I think so and so, the other lawyer, has done this," and we will write back and say, "We intend to send a copy of your letter to him to get his side of it." That is the normal case.

Mr. Epp: If you were to say that you intend to write a letter to get his side of it, etc., would he write back and say, "Look, do not reveal my name," or would he-

Mr. Jarvis: He could but it does not happen very much.

Mr. Dick: Mr. Chairman, I think there is one small qualification. Because of the nature of the proceedings, we would do everything possible to recognize any confidentiality sought by the informant, but certainly in some of the ones I have spoken to if their evidence is the only evidence that is available with respect to the complaint, you cannot proceed against the lawyer without disclosing the complainant.

As Mr. Jarvis has pointed out, we use our own investigators, auditors and everything else to establish the facts without doing it, but I think in fairness I have had to tell a couple of people that if it is pursued it may not be possible to do that because we have a problem if it is important matter. What do you do when you are charged with information that that or perhaps another offence has been committed and provide the confidentiality if that is all that is there? In that context it is a little like a criminal prosecution where confidence can be recognized, but there comes a point where you have to warn an individual to disclose it. It may be a problem.

Mr. Epp: Thank you.

Mr. Chairman: Thank you. Mr. Cassidy has a supplementary on this before we break.

Mr. Cassidy: I have, in fact, two questions with respect to the law society and I think we might be able to move to legal aid at two o'clock if I could just get those out of the way.

Mr. Chairman: No. Mr. Conway wishes to speak.

Mr. Cassidy: I am not trying to rule Mr. Conway out. I am just saying that he could be worked in, but if he is not here at two, we could--

12:20 p.m.

Mr. Chairman: He will be here at 2. He had a meeting at 12:15 p.m. If you have a supplementary on Mr. Epp's question, perhaps we could take it now. If you have new questions, you would lead off at two o'clock.

Mr. Cassidy: Why don't we get me out of the way because I want to talk--

Interjection: We would love to get you out of the way.

Mr. Cassidy: My first question is, when is the law society going to take effective action to get Ontario to stop the practice of phoney distinction for lawyers involved in the system of Queen's Counsel designations? What action have you taken and what action might you take now?

You will acknowledge that it is not reflective of merit in any way apart from having occupied 12 years at the bar in Ontario. The number obviously degrades the currency. If anything is required to recognize distinction among lawyers, then maybe some awards, 10 or 15 a year, might be required. In the meantime, what we need at least is a moratorium of five or 10 years on QCs in Ontario to get out of the habit. What are you doing about it?

Mrs. Legge: Mr. Ground wants to speak.

Mr. Ground: Mr. Cassidy, we have three times and we are about to for the fourth time to plead with the government of Ontario which grants QCs--we do not--to make them meaningful. We have suggested that not more than 25 a year be awarded and only to leading counsel or persons who have made a substantial contribution to the profession. We have asked for some input into the awarding of QCs and we have been turned down flat each time. We are coming around this fall for the fourth time with the same plea. To be facetious, I suggest you address your question to your member of the provincial parliament.

Mr. Cassidy: I appreciate that you have taken that point of view. Have you considered going further and asking those members of the profession--they have to initiate the process now by indicating their readiness to accept a QC and by making an application. Would it not be refreshing if, instead of doing that, you were to have the members of the bar simply decide to boycott

that kind of process and indicate to the Attorney General in a clear way the kind of thing you talk about, which might restore some meaning to the QC or to some new designation, would be preferable?

Mrs. Legge: May I make a comment here in defence of the Attorney General. Last year the list of people to whom the government awarded a QC was proportionately much smaller. The number was constant or a bit down, and the numbers in the profession have doubled in the last eight years. Proportionately, the number has been greatly reduced.

The other thing I would like to point out is it was our perception that the Attorney General had been very painstaking in the persons to whom he awarded a QC last year. I am not here to defend the Attorney General, but he is aware of the difficulty and has been trying to do something about this.

Mr. Cassidy: Could I make a suggestion? If the Attorney General continues to want to have this access to--it's a patronage kind of thing. A lot of people have got QCs because of basically distinguished public service to the Conservative Party in Ontario--

Interjection.

Mr. McLean: A good Liberal in my riding got one last year.

Mr. Cassidy: That's true but an awful lot of Tory lawyers got it too. People of other faiths have as well. None the less--

Interjection: I hope you tell us the truth about this, Michael.

Mr. Cassidy: What I am suggesting is why doesn't the law society, which certainly is not a partisan body, consider launching an award to maybe 15 or 20 distinguished lawyers across the province--

Interjection.

Mr. Cassidy: --and telling the Attorney General that if he wants to take that over and make that a substitute for the QC program, it would be delighted to co-operate.

Mrs. Legge: Mr. Cassidy, one of the first pieces of paper that came across my desk when I was elected treasurer was a two-page letter from our secretary suggesting exactly this.

Mr. Cassidy: Will you go ahead with that?

Mrs. Legge: We are looking at it. I don't make the decisions, convocation does, and we are 44 benchers and two or three life benchers. That is where the decisions are made. It is being looked at by the law society.

Mr. Cassidy: I would say as somebody who aspires to power that we are prepared to give up the potential to award QCs

in favour of something like that that you might institute and we would be prepared to--

Mr. Rotenberg: You will never be in power.

Mr. Cassidy: Madam Treasurer, my other question is with respect to the nonlawyers on the bench. One or two of the annual reports, I'm not sure which ones, talk about how refreshing it was to have this breath of fresh air from having people outside. It seemed to me that you have opened the window only marginally when those outsiders were added to the bench of the law society some eight or nine years ago.

Is it not time now to consider a substantial increase of outsiders to the bench so there is not a trickle of outside influence, but perhaps something more substantial?

Mrs. Legge: If it could be demonstrated to us that this was of benefit to anyone, I would agree with you, but the people who surely know the problems of the profession and how to govern the profession are principally members of the profession.

If you could show us, if we turned over the governing of our profession to 50 per cent doctors and accountants and insurance agents, this would be an improvement, I would agree with you. But the profession, I would like to suggest, is being very competently run at present, and I can't see that this would be an improvement.

What the four lay benchers have done is to bring us a perspective of the laity. They have said to us, "Now, look, this is the way the public sees it," and it has been very good. We have four there. They have been very competent benchers, they have been very conscientious, but I cannot see that diluting the numbers of benchers who are lawyers is of any benefit.

Mr. Cassidy: I don't think it is possible to have total representation of all sectors of society in Ontario within the numbers that one can conceive of adding to the bench. None the less, it does seem to me that were you to consider having, say, one dozen or so outsiders on the bench, in other words, a very significant proportion, it would be possible to adequately reflect the needs of people who are poor, perhaps of--

Mrs. Legge: Once again, Mr. Cassidy, with all due respect, we are there to govern the profession.

Mr. Cassidy: Yes. You have stated quite clearly, and I think in some respects quite convincingly, some of the concerns of the law society in the sense that they are not totally closed, and I am prepared to commend you for that. It seems to me that, given the public responsibilities which you have and balancing those against your desire to maintain yourselves as a self-governing profession, it would be desirable to have more of that outside input within the bench than you have now within your convocation.

Mrs. Legge: I don't perceive that as an improvement, Mr. Cassidy. It seems to me that it is functioning very well right now.

Mr. J. M. Johnson: Surely you would agree that a couple of politicians would liven things up.

Mrs. Legge: We have had one judge who suggested that we have a couple of judges appointed.

Mr. Cassidy: I would say that in this case, Madam Treasurer, we really don't have a meetings of minds. I do disagree with you.

Mrs. Legge: No, we don't, Mr. Cassidy. I feel that if it could be demonstrated that there would be an improvement by having 12 lay benchers, I would say great, but our function is to govern the lawyers.

Mr. Cassidy: But you would have argued beforehand--

Mr. Epp: With respect, Mr. Cassidy, I think that if you look at a number of other organizations, and I commend the law society benchers for having some other people on there, if you put this in the proper context, I don't think in teachers' organizations they have a lot of nonteachers or in the medical profession have a lot of nonmedical types or in the labour union that they have nonlabour union people come in from the outside and put 50 per cent of nonlabour people on the boards.

In all fairness, I don't see, Mr. Cassidy, recommending that we should have 50 per cent nonunion people on those boards.

Mr. Cassidy: With respect, though, in their environment the trade unions have to deal with management all the time. You are a self-governing profession, and the law is such an arcane place that some of the checks and balances that surround teachers who work as employees and trade unions that represent employees do not prevail when it comes to the kind of responsibilities taken by others.

Mrs. Legge: We have our checks and balances, Mr. Cassidy. We have the public. We have our complaints. We have the members and we have our clients. We have the checks and balances.

Mr. Ground: We have the divisional court.

Mrs. Legge: As Mr. Ground says, we have the divisional court.

Mr. Cassidy: I have made my point and it is time for lunch.

The committee recessed at 12:31 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
LAW SOCIETY OF UPPER CANADA

THURSDAY, SEPTEMBER 15, 1983

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Breagh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Conway, S. G. (Renfrew North L) for Mr. Mancini

Clerk: Forsyth, S.

Assistant to Clerk: Stesky, J.

Staff: Eichmanis, J., Researcher

Witnesses:

From the Law Society of Upper Canada:

Dick, R., Under-Treasurer

Ground, J., Chairman, Legal Education Committee

Guthrie, H., Benchers

Jarvis, K., Secretary

Legge, L., Treasurer

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, September 15, 1983

The committee resumed at 2:08 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
LAW SOCIETY OF UPPER CANADA
(continued)

Mr. Chairman: Gentlemen, having a quorum present, the next questioner will lead off.

Mr. Conway: Thank you very much, Mr. Chairman. I wanted to raise a few questions of a general nature about the law society in the perspective of a lay person.

I come from that part of the province where, in the words of the late renowned James A. Maloney, QC, we were governed not by the law of Osgoode Hall, but the law of Killaloe.

Mr. J. M. Johnson: Where is Killaloe?

Mr. Conway: You will never make it to the cabinet that way.

Mr. Breaugh: It is east of Yonge Street.

Mr. Conway: I must say I have really enjoyed the discussion here today because I have gained an insight into the operations of the law society. I must tell you at the outset, Mr. Chairman, recognizing that you have probably some real sensitivity, given your membership in same--I presume you are of good character and still accepted--the Law Society of Upper Canada, deriving as it does from the reign of George III, was around even before the Tory hegemony here or the official hegemony of the twentieth century. The nomenclature, I must say--

Mr. Cassidy: They were in power then too.

Interjection: Yes, that is true.

Mr. Conway: I am interested, for the interest of the member for Wellington-Dufferin-Peel (Mr. J. M. Johnson), to know something about the organization. I am particularly struck by a number of things Mrs. Legge said in the course of the discussions this morning. I have to tell you, and I have listened carefully to the way you have talked about your protection of the public interest, that generally speaking you project an image of a rather conservative, if elegant and very informed group. I am reminded that Harry Truman once described himself as an outside pillar of the church. You people give the impression of being inside pillars of the establishment. That may be an unfair assessment.

I must say, Mrs. Legge and gentlemen, I had my interest in the Law Society of Upper Canada heightened a few months ago when I incidentally came upon your 1983 elections. From the reports I received, they were very vigorous exercises indeed. I well remember talking to a number of younger lawyers who, in their comments to me, certainly made it clear a so-called reform slate was offered in those elections that, I believe, was not successful. So I was interested when I listened to the presentation this morning to hear--and Mrs. Legge, you repeated on a number of occasions--your concern about and desire to protect the public interest with respect to the questions raised by Mr. Johnson in terms of advertising.

I was struck, Mr. Jarvis, by your comments in an exchange perhaps with Mr. Rotenberg, although I am not sure, about why lawyers should have this self-governance and how your answers seemed to be at some variance with the McRuer dictate, which I wanted to come back to a little later.

But is it fair to say that in recent months there has been a restlessness amongst some of the membership about the representativeness of the benchers at the Law Society of Upper Canada?

Mrs. Legge: Let me ask, whom are we supposed to represent? A reform group within the profession? What do they want to reform? I am sorry. I am asking you the question you are asking me. But this is my question, what do they want to reform?

Mr. Conway: It is obvious, from the information I have about the most recent elections, that there is--not surprisingly, it happens in a lot of organizations and I do not think you should be unduly nervous about this--but I was--

Mrs. Legge: No (inaudible).

Mr. Conway: But you were very defensive just right there, Mrs. Legge, and you could certainly--

Mrs. Legge: No, no, I want--

Mr. Conway: You were very definite in your response, and I simply wanted to share with you some of the information I have had put to me by younger lawyers in recent months who say, "The benchers do not, in our estimation, fairly represent the modern legal community of Ontario in 1983."

Mrs. Legge: Excuse me. This is the concept I alluded to several times this morning when I pointed out to you that we, as benchers, are elected by every lawyer in the province; everybody has a vote. If the majority of the lawyers wanted the reform candidates, they would now be here and not us because everybody has a vote.

Now to follow on--

Mr. Conway: If I can stop you there, it is, again, for those of us who live in the Ottawa Valley and who are not sensitized to the legal pressures of big Toronto law firms--I am

told, for example, that the major downtown firms undertake very expensive campaigns to see to it that their nominees secure election.

Interjection.

Mrs. Legge: It will be your turn in a moment. I would like to respond--

Mr. Conway: That is just a report from the field and perhaps, Mrs. Legge, you and others on the committee would like to respond.

Mrs. Legge: I am very defensive about that because--

Mr. Conway: You appear to be, yes.

Mrs. Legge: --for most of my life I was all by myself practising law at Yonge and St. Clair. I am now in a huge Toronto firm of four people. I do not represent any large downtown Toronto law firm, so I take issue with that. More than 50 per cent of the benchers are not from large firms.

Interjection: Better than that.

Mrs. Legge: Better than that?

Mr. Ground: Yes. May I speak as one from a very large downtown law firm and proud of it? Out of the 44 benchers, I think there are probably seven or eight who could be described as being from large firms. We do put on a campaign to elect the person running from our firm. Probably the best campaign in Ontario is put on by the Ottawa-Carleton Law Association.

Mr. Conway: Are you suggesting that is not a major centre of legal activity in the country?

Mr. Ground: No. I think that is just fine.

Mr. Conway: The point I am getting to is very simple. A lot of people--I should not say a lot of people in fairness--a number of younger lawyers have made a very direct point with me in recent months of saying that the law society, particularly at the leadership level, at the bencher level, represents the establishment, does not represent--

Mrs. Legge: What is establishment?

Mr. Conway: I would say, quite frankly, and I do not want to pry, but my guess is that you are all over 40.

Mrs. Legge: Oh, no, not I.

Mr. Conway: I bet that you are majority WASPs. I will not push that.

Mrs. Legge: Reno Bragagnola and Roger Yachetti; I am terribly sorry I did not bring them. I should think that if you come down and look at our benchers, that is not a fair criticism.

Mr. Conway: I am simply sharing with you because as an elected member I have had the opportunity to hear from people and I thought today was a unique opportunity to bounce some of this off--

Mrs. Legge: I would like to say something here. First of all, no matter who is elected, there is going to be somebody complaining that their group was not elected. I think if you go back to your so-called reform group and ask them what they are after, they are after--and this is what I said this morning--the law society representing them in a quasi-union capacity. That is not the function of the law society.

We are the governing body of the lawyers in the province and I will repeat it again and again because this is what we are and how we see our mandate. We must be there to protect the public and to see there are qualified lawyers to give service. We are not there to see that young lawyers get jobs or that they are getting the money they want. We cannot represent the interest of the profession, only in so far as the interest of the profession needs to be represented to protect the public.

Now those are not high-sounding words. That is the job of the law society and that is what it has to be if we are going to keep a legal profession that is an independent profession that will protect the public.

Mr. Conway: It sounds very eloquent, but I might--

Mrs. Legge: It is not eloquent; it is a fact.

Mr. Conway: It is not for you to say what I want to say, Mrs. Legge, but I was going to say that it is to me an eloquent but rather conservative statement of the mandate.

Mrs. Legge: What would you like us to do?

Mr. Conway: I was going to share with you from the press release of the Committee for a Representative Law Society, dated April 1, 1983, one paragraph which sets out their view, since you asked for it and I do not--

Mrs. Legge: Yes, indeed.

Mr. Conway: --necessarily mean to exclude a gentleman like Mr. Guthrie from Guelph who, I am sure, has some views from perhaps a smaller--

Mr. Guthrie: I am not establishment.

Mr. Conway: It depends on which Guthrie you are. If you are a son or a nephew of the late Minister of Justice for Canada, perhaps that is another matter, but I will talk to you about that privately later. If you are, then your lineage is historic and great indeed.

Mr. Guthrie: Thank you.

Mr. Cassidy: It is an unfounded rumour that he went to Queen's University.

Mr. Conway: Quoting from that press release, "We believe certain urgent matters affecting both the profession and the public are not getting needed or prompt attention from convocation. These matters include the high, compulsory costs associated with the practice of law, law society fees, compensation fund and insurance premiums, demonstrated problems of the Ontario legal aid plan and legal education at all levels, the LLB programs, bar admissions course, alternatives to practice and continuing legal education."

You asked me, Mrs. Legge, for a statement of the--

Mrs. Legge: I read that when it was published.

Mr. Conway: And you do not feel that is in any way a justifiable complaint.

Mrs. Legge: That is correct. I do not feel it is a justifiable complaint.

Mr. Conway: Does anyone out there feel it is a justifiable complaint?

Mr. Ground: I am not sure what the complaint is. What do they contemplate doing about it? All those things are active matters that we constantly have under consideration. What are they proposing? What is your point? Do you object to the system of one person, one vote? What would you have us do in order to elect benchers? Most of the young lawyers I know were delighted the reform group was not elected.

Mr. Conway: I cannot speak from a knowledge of the young people you know and I certainly do not suggest the young people I know represent any broad cross-section. I am just saying that as a lay person who happens also to be a member of the Legislature it is of real interest to me when people associated with the practice of law, in whatever numbers, come forward and make this kind of a complaint about the way in which their profession is being run, given that it is a self-governing profession.

I thought perhaps I might draw from you some sense and some appreciation for this particular unrest, whatever nature and extent it may be, in the late summer of 1983. I must say that you give the impression of being most insensitive to what these people have called out for some concern.

2:20 p.m.

Mrs. Legge: We are not in the slightest bit insensitive and every matter they are discussing, as Mr. Ground has said, is under active consideration at all times. We are not insensitive.

Mr. Conway: I am just saying from my point of view, Mrs. Legge and gentlemen, you give the impression of being quite inflexible and insensitive on the basis of your responses here

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this afternoon. That may be an unfair seat-of-the-pants judgement, but I am just saying that is the impression--particularly you, Mrs. Legge. You give the impression of being a very conservative hard-liner on these matters.

Mrs. Legge: What do you want me to be?

Mr. Conway: I would like you perhaps to be a little more sensitive to these kinds of--

Mrs. Legge: We are very sensitive to them.

Mr. Conway: I was struck by the--you see we nonlawyers--my good friend the member for Brant-Oxford-Norfolk (Mr. Nixon) is not here and I know that if he were here he would want me to ventilate some of the concerns of we the people who do not find ourselves called to convocation. I must say all these titles and the nomenclature makes it all sound like a sanctum sanctorum, that you meet down behind those beautifully fenced-in grounds at Osgoode Hall, and I would not be surprised if some of the language were Latin and that there was incense in the corners, but that may be a little unfair.

You admit people who are "of good character." I am interested to know, Mr. Dick, what are the rules for good character? How do you determine? Do you have a shopping list of the criteria for good character or do you ever reject anybody on the basis of not good character?

Mr. Dick: If I can make observation on that question that was directed to me, the matter of good character is a matter that is in the view personally expressed by the applicant for membership, who is requested on the application for membership in the society as (inaudible) call to the bar and the bar course and so on, and the individual incumbent expresses his view as to anything that affects good character without any statutory or other definition.

I think probably the view is, and not unreasonably, that is a matter singularly known to the individual, and in the way in which we approach the members of the bar, they are asked to do that. I have seen several cases thus far in my brief career where the individual has--brief career with this institution as distinct from the other institution that is--expressed with his application or her application an expression of things that have happened.

One of those I have seen, and it was subsequently after a hearing, was refused and it was a matter of involvement with the law. That is the only case I have seen since I have been there, but the process is of that nature.

Mr. Conway: You get better with age, Mr. Dick.

Mr. Dick: Thanks.

Mr. McLean: I hope you do too.

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Mr. Conway: I note the intervention of the member for Simcoe East (Mr. McLean). Am I to understand then, that to tie that down, if I should happen to have a criminal record, I am not of good character and not likely to gain admission?

Mrs. Legge: No.

Mr. Ground: No. The question on the application, a section of the act is quoted, and you are asked to indicate if you have a criminal conviction or anything else that in your view might be relevant to the question of good character. In eight years there have been--Mr. Jarvis will correct me--that I can recall maybe six or seven questions that have come before the committee because the applicant has put down a conviction for possession, shoplifting 10 years ago or whatever. I do not recall any of those people being refused.

Mrs. Legge: That is correct.

Mr. Conway: I am still no closer to understanding then what the ingredients of good character are, particularly what the known factors are for making that judgement. I take it from what you say, Mr. Dick, there aren't any. Is there not a set of criteria that helps you as a law society determine good character?

Mr. Dick: I am not aware of any prescribed rules in that respect.

Mr. Conway: It is broadly judgemental. Is that correct?

Mrs. Legge: That is correct.

Mr. Conway: You have rejected people for admission to the society in your memory, Mr. Dick, for--what was that again? I want to be straight on this.

Mrs. Legge: I have been chairman of the admissions committee, Mr. Conway, for the last three or four years. During my chairmanship we have rejected one person of the 3,000 or 4,000 who have applied. I think it is one person, is it not? You should know. You are the secretary.

Mr. Jarvis: I think we have rejected more than one. I am not sure what Mr. Conway is directing his question to.

Mr. Conway: I was struck by the fact that in order to gain admission to the Law Society of Upper Canada you have to be "of good character." I am not a lawyer but that always strikes me, having been around lawyers in this place for now almost eight years and some months, if we were putting that in any legislation today, we would really have some defending to do.

Mr. J. M. Johnson: I think they are really just trying to avoid a Simmons case.

Mr. Conway: It may be, or Mr. Gilchrist or Mr. Jones in Moncton. Mr. Jones is a lawyer. I do not think Mr. Gilchrist is. We should not presume guilt before the courts have yet had their chance, since you want to make it an issue, Jack. I just want to know whether or not you have any handle of good character.

Mrs. Legge: Yes, we have.

Mr. Conway: What is that handle?

Mrs. Legge: If a person has been a good citizen, if they have never been in any difficulty, we accept them as people of good character. As I tell you, during my chairmanship I think there is one person whom we have not accepted. If they are not accepted, they can always go to the courts for a judicial review or whatever. They can always go over to the Divisional Court which can upset us. We are not the last word.

Mr. Rotenberg: Can you give us an insight on what you think is not good character, if that is possible?

Mr. Conway: I think that is an important point and I thank the member for Wilson Heights for drawing that out.

Mrs. Legge: I cannot give you--there was only one person.
Interjection.

Mrs. Legge: Yes, you can help.

Mr. Jarvis: Let me try to help.

Mr. Rotenberg: Or allegations of not good character where people have been accepted. That might also help us.

Mr. Jarvis: We start from the position that in the absence of any other information everyone who applies is of good character. The instance I think Mrs. Legge is referring to was a person who had been convicted of serious criminal offences involving fraud. They are asked to provide to the society all the information they regard as relevant to these, such as when it took place, what the circumstances were, the name of the judge, the crown attorney, the defence counsel.

If there were any pre-sentence report we should see it, any information whatsoever including--and it is important to include--evidence of rehabilitation thereafter and anyone who can give any information relating to that. That information goes first to the committee and the committee evaluates it.

If a person is to be refused admission to the society on the basis of that information, they are entitled to come to the committee in person, with or without counsel, and to make submissions to it. There are no written guidelines as to exactly what conduct represents conduct from which the inference of bad character could be made.

Mr. Conway: But on the basis of what you have just said in response to Mr. Rotenberg and my earlier question, in the one case where you have had some personal experience in recent years a conviction for the criminal offence of fraud was sufficient in your mind to make a person not of good character.

Mr. Dick: May I just interject? You are talking about a single case and you are publicly discussing the nature of why it was rejected. You are going to identify some individual who was rejected from application and was known to others and that would be associated. That is why I did not say that when I made my comment.

Mr. Conway: You can appreciate that is my general interest. It struck me--

Mr. Rotenberg: I think what Mr. Jarvis has said that conviction for fraud may or not not disqualify, if there is evidence of rehabilitation and mitigating circumstances. A person convicted some years ago still may be admitted to the society. Is that not what you were just saying?

Mr. Jarvis: Yes. I am trying to describe to you what it is that happens because I do not quite know yet what difficulty you perceive with it. My feeling was that if you could--

Mr. Conway: All I have asked for is, how do you define in specific terms good character since you have made it a condition of admission to your learned society. Now if you cannot do that, if it is an individual case-by-case assessment, then that is fair enough. I accept that. Quite frankly, I find it surprising from lawyers that there is not a tighter definition, but it may be quite possible to make it more precise than that.

2:30 p.m.

Mr. Rotenberg: The converse might be easier, to define what would be not good character, the types of things which would disqualify a person under that section. Could you give us some hypothetical examples of what might disqualify a person in the good character section? That may clear for us how you use that section.

Mr. Jarvis: Instances that I think would be regarded as of bad character would be conviction for serious criminal offences without adequate evidence of rehabilitation.

Mr. Rotenberg: Any other examples of ball-park types of bad character that would disqualify.

Mr. Jarvis: Do you mean before they are admitted or after?

Mr. Rotenberg: Before they are admitted. In other words, to be admitted, as Sean is saying, you have to be of good character. I understand what Mr. Dick is saying. What are the types of things which in your mind, maybe the hypothetical, might disqualify a person for admission to the law society under the sanction that he is not of good character?

Mrs. Legge: I suppose in our opinion anything that is going to--this is a problem that arises so seldom, I have to point out to you, and we are talking very hypothetically. I should think that anything in his character that would convince us that he

really would not be able to give service in the profession. If he does not like our decision, of course he has the right to come before the committee with a lawyer--

Mr. Rotenberg: May I pursue that for a moment? You say unable to give service, because of ability or because of integrity?

Mrs. Legge: Integrity. Any person who has an LLB in this day and age has the ability.

Mr. Rotenberg: Really a person is not of good character in your opinion if he does not have the integrity to serve the public in a trust position. Is that your definition?

Mrs. Legge: That is very good.

Mr. Conway: Thank you, David. As always you are very helpful.

Mr. Rotenberg: I can do in a minute and a half what takes you 20 minutes to do, Sean.

Mr. Conway: Hope springs eternal for us both. I would like to recite the McRuer injunction about self-government. I am quoting the McRuer commission: "The granting of self-government is a delegation of legislative and judicial functions and can only be justified as a safeguard to the public interest. The power is not conferred to give or reinforce a professional or occupational status." As a group do you subscribe to that without reservation?

Mrs. Legge: Absolutely without reservation.

Mr. Conway: Nobody has any quarrel with that?

Mrs. Legge: Not at all. That is exactly what I have been trying to say, Mr. Conway, all morning.

Mr. Conway: We are going to come back to that, Mrs. Legge, but I am just wondering about Mr. Guthrie, Mr. Dick or Mr. Jarvis.

Mr. Rotenberg: Can you read that again, please?

Mr. Conway: The quote is from the McRuer commission with respect to self-governing professions: "The granting of self-government is a delegation of legislative and judicial functions and can only be justified as a safeguard to the public interest. The power is not conferred to give or reinforce a professional or occupational status."

Mr. Jarvis: There is one observation I would like to make on that and I do not know if it is on the point that interests you or not, but--

Mr. Conway: I had you in mind before you start because in response to--I think it was Mr. Johnson, and I do not have the Hansard with me and I was trying to scribble it down as you talked--you were talking and made reference to the stamp on your

head at one point. I had that in mind because you were saying something that seemed somewhat at variance, but you may have been dealing with a different point.

Mr. Jarvis: It may be. What I have in mind right now is that--I will have to get political and philosophical for a moment. There is a difference between the way in which the legal profession developed in this country as compared to, for example, the United States where, as I understand it, they adopted way back at the beginning a political philosophy of the social contract which involved a notional handing to the state of all of the rights of every individual, and the state then, democratically controlled, gave back to the individuals those rights the state agreed the individual should have to exercise.

In this jurisdiction that notional social contract never developed. In Canada it developed from the British prototype in which the individual has every conceivable right that has not been taken away by the state. One of those rights that everybody has unless it is taken away is the right of free association one with another.

Applying this to the law society and the development of the legal profession, there is this slight difference, and it is why I speak to what you have just quoted from Mr. McRuer. The law society first formed itself in 1797 as a self-regulating group. It had no monopoly. It immediately asked the government for a statutory framework within which to develop and, as part of that, received from the state not the right to be self-regulating, because every group has that--every group that forms itself can decide whom it wants as its members and it can impose its own internal discipline--what it did receive was the monopoly that was referred to earlier, the monopoly to appear as a representative of an individual in the courts.

So I cannot agree entirely with the bald meaning of what you have quoted. Is that helpful?

Mr. Conway: Yes. Thank you.

Mr. Epp: Probably an interesting side item of that would be that most of the members of the Legislature at that time were probably lawyers themselves, were they not? Now the proportion of lawyers in the Legislature is probably 20 to 25 per cent; at that time it was probably 60 or 70 per cent.

Mr. Jarvis: I do not really know.

Mr. Epp: I know that the proportion has dropped.

Mr. Conway: I would never be so bold as to make that assertion.

Mr. Dick, there are four lay benchers appointed by the Lieutenant Governor in Council to serve as lay benchers on the board. Correct?

Mr. Dick: Yes.

Mr. Conway: There is Noel Ogilvie from Grimsby. Who are the other three?

Mr. Dick: Reginae Tait of Toronto, Roseanne Sutherland of Sudbury, Robert Tebbutt of Toronto and Noel Ogilvie, of course.

Mr. Conway: I am just trying to get a feeling for the kind of perspective that those four lay benchers bring.

Mr. Dick: It is a very interesting one, actually. Mr. Ogilvie is a contractor. He is a gentleman of some years and--I think I would say it if he were here, though it would offend his sense of modesty--he is really a most genial person to work with, very well informed and has been very active in all kinds of affairs.

Mr. Conway: Fine fellow.

Mr. Dick: Fine person. Reginae Tait and Roseanne Sutherland have been with the society for some time in this capacity. Mrs. Tait was extremely active in a great many different aspects of community services during her lifetime. I think the most noteworthy, perhaps, is that she was the national president of a large women's organization and actively served in it for some years.

Mr. Conway: Which one was that?

Mr. Dick: The Imperial Order Daughters of the Empire. She did participate in many other affairs and capacities as director of various charities and so on.

Roseanne Sutherland had a similar career but in northern Ontario.

Bob Tebbutt, who has just joined us recently, is now with one of the very large exchange operations in commodities and stocks and so on and so forth downtown. He has been a commodity trader for some time and has just recently moved to a larger firm. He is very well informed in management matters.

Mr. Conway: My interest in asking this is again to get a keener sense of the representativeness of the board--I will call it a board; I am sure it is not properly described as such, but you know what I mean. So you have mentioned two business types, basically, and a past president of the IODE.

Mrs. Legge: If I might interject, Mrs. Tait is a teacher by profession. She taught for many years and has been very interested in education.

Mr. Conway: I am just wondering whether any of those four people could be considered representative, for example, of an active consumer organization. That is why I asked about the IODE.

Mr. Dick: I do not know the background well enough to know.

Mr. Conway: I would think not, on the basis of what you have said. You do not have anybody there who has got a past with a consumer organization as such. It might have been incidental to some of their other responsibilities.

Mr. Dick: For my part, I would think they could well have it; they are active in so many things. But I just do not know that they were; so I cannot say, "Yes, they were."

2:40 p.m.

Mr. Conway: I have a prejudice that you are a pretty establishment outfit; so I am trying to be drawn away from that. Pardon me for being rude in following that line, but I just do not get a sense from the four lay benchers that they are, broadly speaking, representative of any dissension in society.

Mr. Ground: Mr. Conway, perhaps if there is an issue here it would help us to address it if you would define "establishment."

Mr. Conway: To start with, white Anglo-Saxon Protestants over age 40 is what I think John Porter, if he were here, would say is a good place to start. You all look as if you are ambassadors of that.

Mrs. Legge: As the chairman will tell you, I grew up on a farm just outside Woodstock, and if I am establishment I am honoured, because no one has ever called me that before. But perhaps a farm girl from Woodstock is establishment.

Mr. Conway: You sound establishment to me here today, but that is again just the difference between people.

You mentioned, Mrs. Legge--and I wrote it down at the time--that "our standards are much higher than those of the criminal law." That goes back into mid-morning, and I wanted to know if you could help me understand in particular ways how your standards are much higher, as I wrote down, than the criminal law. In what particular ways is that so?

Mrs. Legge: They are different. If a person is incompetent to practise law, he may be guilty of no criminal act but he could be brought before our discipline committee because of his incompetence.

Mr. Conway: So it comes back to the point you were making earlier that your discipline committee moves on all kinds of things that are not criminal.

Mrs. Legge: Precisely.

Mr. Dick: I was just going to make the observation in respect to the treasurer's comment that the level of conduct expected of a lawyer is much higher than that which the Criminal Code expects of a lawyer; so conduct that would not be a criminal offence could be an offence of an ethical nature.

Mr. Conway: My heart beat quickly there because I thought you were going to say much higher than we politicians.

Mr. Ground: That is true too.

Mr. Conway: We are going to come to the lawyer-politician, Mr. Ground, more quickly than you might like.

I want to talk about the accessibility question, because I think there is an awareness in the general public that there are a lot of lawyers around, that the number in your profession has doubled roughly to 16,000 in about the past 10 or 11 years. You as a society have made it clear--I think back to the spring of this year, when you struck your special committee on numbers, if my memory serves me correctly--

Mrs. Legge: A year ago.

Mr. Conway: What is the official position of the society at this time with respect to accessibility? Who should and should not be allowed into law school in Ontario?

Mrs. Legge: Our present stance is that any person who has an LLB and comes to us is accepted into the bar admission course and graduated as a lawyer.

Mr. Conway: My question was, though, does the law society have a view; and, if it does, what is it at this point with respect to admission to law school.

Mrs. Legge: We do not have a view. No.

Mr. Ground: May I answer that? We do not have a say on the question of admission to law school. Whether there are five, six or seven law schools in Ontario and whether they accept 1,000 students a year, 800 or 1,200 is determined by the universities and the provincial government, not by the law society.

Our only input is when a new law school is established. The curriculum, the library facilities and the other educational facilities are put before us for our approval. We look at the curriculum, the course and the facilities and we say: "Yes, this will be an approved law school. An LLB from that law school will entitle you to article and take the bar admission course in Ontario." But we have no say as to admission to law school per se in the individual case or in the aggregate.

Mr. Conway: I am quoting from an article by Michael Salter in the Financial Post of March 12, 1983. I want to quote a couple of paragraphs of this and then perhaps have your response.

"Society Would Limit Ontario Lawyers' Ranks" is the headline.

"After years of study and heated debate, the influential Law Society of Upper Canada has decided to lobby for a reduction in the number of students entering Ontario's six law schools.

"The rapid increase in lawyers' numbers--and the effect on salaries and employment--is a contentious issue in the province.

Since the Upper Canada society governs 16,000 of the 40,000 lawyers in Canada, its move would influence other provincial legal bodies which have similar problems.

"The decision puts pressure on Ontario's university law faculties which, under present rules, will lose much-needed operating funds if enrolment is cut.

"The Ontario society"--meaning you people--"has resolved to 'confer with the appropriate government ministries, and with the universities in Ontario which have approved law faculties, to review the number of seats available in their first years.'"

That seems to be a little different from what I drew out of--

Mr. Ground: No, that is not inconsistent. What I said to you is correct. We do not have any say as to how many law schools, the size of the law schools or who they admit. We did have a special committee on numbers, which were quoted last spring or late winter.

One of the conclusions, and not a particularly brilliant or deep conclusion, was that there appears to be at the moment an oversupply of lawyers in Ontario. We think the province and the universities, the people who have a say in this matter and who purport to have some way of predicting these things, should take a look at the question and consider whether there ought to be a reduction in the number of places in law school but without reducing the funding of law schools, because we appreciate that there is a problem with funding.

The University of Windsor had already done this long before our committee reported. It has arranged to gradually reduce the number of first-year places but without affecting the funding to the law faculty.

There is something called COFOR, which is either a federal body or a provincial body, which purports to be able to predict manpower requirements for various jobs and professions into the future. We were simply suggesting that those bodies that purport to have the ability to do these projections--and they have done it before with nurses, teachers, engineers, whatever--maybe should look at the legal profession.

Mr. Conway: All right. I want to come back to the first point. Did you or did you not, as a society, lobby the appropriate government ministries with a view to reviewing the number of seats available in first-year law faculty?

Mr. Ground: I am not sure what you mean by lobby.

Mrs. Legge: No. That's what bothers me. What is a lobby?

Mr. Conway: I am quoting from an article that is quoting the society.

Mrs. Legge: Who is Michael Salter?

Mr. Conway: I don't know who he is.

Mrs. Legge: We don't know either.

Mr. Ground: I am repeating myself. What the report said was that there does appear to be an oversupply of lawyers in the province at the moment. We, as a governing body, do not think we have any business setting an arbitrary limit on the number of persons who can be admitted to the bar, particularly after a young person has spent four and a half or five years of his or her life preparing to be a lawyer. However, if there is an oversupply it has to be dealt with at the level of the first-year admission to law school.

The only people who can do that are the provincial government and the universities. We think they should sit down and look at this problem and see if they can make projections. I do not know how you project the need for lawyers five years from now. I am very sceptical as to whether anybody can do it.

But we certainly are not lobbying them to do it. We are suggesting that it has to be done at that level, not at our level of bar admission, and it could only be done by the province and the universities.

Mr. Conway: If it helps, and again I am reading from this article, the resolution spoken of said: "The Ontario society has resolved to 'confer with the appropriate government ministries, and with the universities in Ontario which have approved law faculties to review the number of seats available in their first years.'"

Mrs. Legge: That is correct.

Mr. Conway: So that is correct? Then you did?

Mrs. Legge: We did not lobby. We merely asked to have the problem looked at, if there is a problem.

2:50 p.m.

Mr. Conway: All right. It goes on--this may be more helpful: "The resolution"--spoken of above--"was adopted in January following the presentation of a report by the society's 12-member special committee on numbers..."

I am reading this. This may be a wrong stamp, but it says, "Financial Post, March 12, 1983."

"The resolution was adopted in January following a presentation of a report by the society's 12-member special committee on numbers, chaired by Hamilton lawyer Roger Yachetti.

"The committee was formed in 1981 to study whether the perceived oversupply of lawyers in Ontario was adversely affecting salaries and the quality of legal services and to recommend courses of action. A new committee to pursue the issue will be

formed at the society's next meeting on March 25. It will probably be headed by Yachetti, who favours reduced enrolment."

Was that committee ever formed?

Mrs. Legge: Yes, it was.

Mr. Conway: The article goes on to make it clear that the society favours reduced enrolment.

Mrs. Legge: No. That is not really correct.

Mr. Conway: It says, "Although the society has voted to try to reduce enrolment..." Is that not correct?

Mrs. Legge: No, it is not correct. We feel that if a person comes to us with an LLB, then he has the right to complete his education and be called to the bar.

Our only interest in this is--there are two. It seems a great shame for 300 or 400 young lawyers to have been called to the bar and not able to find employment. Personally, my heart aches for them. I am not joking. I feel very sorry for a bright, young lawyer, because anyone who gets an LLB today is a very superior young person. It is a pity that they cannot be called to the bar and find employment.

That committee and the convocation decided that, principally, we had to let young people know that there is difficulty in finding employment as lawyers.

Our other concern was that perhaps the universities and the government should look at reducing the numbers taken into the law schools when there was no work for them at the end of the road.

Our concern about numbers can only be, is it doing anything to reduce the level of service to the public? That is the only concern we can have. This was made very clear in convocation.

Mr. Conway: I think you make a good point. Certainly I feel very much for people who are put through a long educational structure, graduating to almost certain unemployment. It is a problem that other professions are facing, it seems, to a greater or lesser degree.

I was struck, Mrs. Legge, by something that you just said. I would like to digress and ask you to elaborate.

You said, "Anyone who gets an LLB today is a very superior young person."

Mrs. Legge: That is correct.

Mr. Conway: What do you mean by all of that?

Mrs. Legge: I mean that they have a very high learning potential. It is an extremely difficult course. The applications for the law schools are about four for every place. The

universities are only choosing the people with the highest qualifications; so that even to get into law school they probably have a B-plus or an A level standing from a general BA course. Many of them have MAs, or even more education. So they do not even get into the law schools unless they have very high qualifications.

The LLB course is an extremely difficult course. If they have done all of that they are very superior young people, in my opinion.

Mr. Conway: I appreciate the clarification.

I have one further question. This summer, I was passing my eye over the so-called Morrison special examination of the great trust company difficulty. I was struck by it. I thought today I might comment on it because you in particular, Mrs. Legge, have been anxious, as I think is your right and your pleasure, to underscore this question of the public interest.

In a previous incarnation I used to be Health critic. I used to have these debates with my friends in the medical profession. I must say it is a different kind of debate in some respects here today than that. It has been helpful in terms of clarifying my understanding of your views as a board in particular.

I want to cite a couple of things; they are not long. I was quite struck by some of the comments that Mr. Morrison makes in here about the role of lawyers. He also talks about the role of accountants, but he says a few things in here about lawyers. I would be interested to simply cite some of what he says and ask you a question or two about it.

Mrs. Legge: We have read them all, Mr. Conway.

Mr. Conway: I am going to, for the benefit of the committee, reread some. Reading from page 218:

"In summary, solicitors' trust accounts were, as a matter of practice, used by Rosenberg as a device to hide or camouflage the true nature of transactions involving Greymac Trust and Greymac Mortgage. The tactic would have succeeded even against the inquiry had the divisional court not ruled that the solicitor-client privilege does not attach to the movement of funds through such accounts."

Later on: "Again, the only apparent reason for employing such a device was to hide the true nature of the transaction in which the numbered companies were involved."

It goes on to talk in a subchapter about solicitors' knowledge and the duty to inquire.

"The question arises whether a lawyer involved in a transaction is under a duty to inquire into the true nature and/or business purpose of the transaction, at least insofar as it concerns his own client. Had this been done in a number of the transactions described in this report, the solicitor concerned might have concluded that the real nature and/or purpose was

different from the apparent nature and/or purpose and he might have had to ask himself whether he wished to be associated with the transaction. There is little evidence that the solicitors involved in the transactions herein described considered this question."

Finally, on page 221, in a summary note:

"The lawyers, due to their prominent role, became the second largest category of witnesses examined, second only to the officers of the trust companies. They were used by one or more of Rosenberg, Player and Markle to implement a number of transactions which one or all of those individuals wanted, whether or not the transactions were in the interests of the five companies or their depositors and, in many cases, to mask the real nature and purpose of the transaction from the regulatory authorities."

Now the lay person would read that, I think, to say the lawyers did not do as much as we might have expected they could have done to protect the public interest in that enormous scam that we know as the trust companies affair.

I am wondering, since you have been very quick to point out your role as a board of this self-governing profession to protect the public interest, how you view the questions raised by the Morrison report and how you view the role played by members of your society in the generation of what is a very serious matter as far as the public interest is concerned.

Mrs. Legge: Mr. Conway, we are not in a position to comment on the matters raised in the Morrison report at this time, and that is all I can say for good reason.

Mr. Conway: Do you have a plan of action which will take you to a--

Mrs. Legge: I do not think--

Mr. Conway: Do you have a plan of action as a board of the Law Society of Upper Canada to respond in time to the very serious issues raised about your profession in this report?

Mrs. Legge: Whenever any matter comes before the law society which suggests that some of our lawyers have behaved improperly, we always have a plan of action.

Mr. Conway: Has the board any plans to take up the matter with one of its honorary benchers who is very much involved in particularly the Crown Trust affair?

Mr. Jarvis: I think it would be quite wrong of this group to undertake any assessment of that in these circumstances.

Mr. Conway: Well, I accept that in these circumstances, and they are highly charged, you might very well want to take that view and I am quite prepared to accord it to you. But I want to tell you, as someone who sat here and listened to your very careful statement of the need for you to protect the public

interest, that it is just not going to be good enough for you, as a law society, to walk away from what are very serious charges about the senior people in your profession.

Mrs. Legge: No one said we were walking away from it.

Mr. Conway: I do not get any impression, I do not get any indication that you are--

Mrs. Legge: Surely you can understand that we are not in a position to comment on the charges in that at this time. I think you could perhaps use your imagination to figure out why.

Mr. Conway: I would be happy not to have to use my imagination--

Mrs. Legge: No. I am sorry--

Mr. Conway: --to understand what plans you have to take this matter under advisement.

Mr. Rotenberg: It seems to me (inaudible) that the society has an obligation to investigate these matters and not to comment at this stage on what their investigation--

Mr. Conway: I said that and I have said that repeatedly.

Mr. Rotenberg: I think it is unfair to ask them to comment--

3 p.m.

Mr. Conway: Mr. Chairman, I want to conclude my remarks by coming back to a couple of the issues that I began with initially: the whole question of good character, the whole question of protecting the public interest.

I have to tell you I think it ought to concern the law society, as I hope it does, that among others, an honorary bencher of yours is implicated in some of this and that there are charges here which I think reflect very poorly upon the profession.

I hope that as you go forward to protect the public interest, you will be vigorous and vigilant in satisfying those of us who are lay people out there, that you are up to the task when it deals with such a very serious matter involving some very senior and well-placed members of your society.

Mrs. Legge: If I may give you our assurance, Mr. Conway, we are always very vigilant.

Mr. Conway: I will watch very carefully the Law Society of Upper Canada to see just how vigilant you are about disposing of what I consider to be enormously serious charges about the way in which some very senior lawyers have performed in the public interest in this particular matter.

I want to thank you, Mr. Chairman, for allowing me the opportunity to question the witnesses, and I want to thank them for their direct and usually helpful responses.

Mrs. Legge: Even if we are all WASPS.

Mr. Conway: I did not say you were all WASPS. If you are telling me, Mrs. Legge, that you are all WASPS, then perhaps you make my case even better than I made it myself.

Mrs. Legge: The only problem is you typed us all as being over 40.

Mr. Conway: You were asking me. Even Mr. Ground was pushing me towards a definition of the establishment. I am not a sociologist, but I want to say again that you would do well as a society to be more sensitive than you, Mrs. Legge, appear to be. I do not mean to make your life difficult, because I know of your reputation, and it is a very high and good one indeed. But I must admit that some of your members tell me that you are a hard-line, small-t Tory. Maybe that is unfair, but I must say on the basis of what I have heard here today, it may be a charge not completely without substance.

I would just hope that you would be more sensitive than some of you have appeared to be here today to the advice and to the movements of younger people in the profession.

Mr. J. A. Taylor: Maybe, Mr. Chairman, Mr. Conway could define his term "small-t Tory." I want to know whether he is intending me as well.

Mr. Breaugh: No, absolutely not.

Mr. Chairman: Gentlemen, shall we pass on to legal aid? That completes other than the legal aid matters.

Mr. Breaugh: Yes. I wanted to go through a bit about legal aid and particularly the clinics.

I have followed the development of the clinics, and one of the things that concerns me is why the approach to the establishment of legal aid clinics was taken in that way, as opposed to trying to provide each area with a legal aid clinic.

Mr. Guthrie: Perhaps I could answer that. The legal aid clinic system was established to take care of the areas of greatest concern. The funds being of a limited amount, we took a position where there was a need for it with injured workers, for example, or there were the Spanish-speaking peoples, or whatever, and made an assessment as to the need in a particular catchment area. It was not intended to have it in every area and in every district in Ontario unless there was a perceived need.

Mr. Breaugh: In looking at how they were established initially and how they have functioned since, are you in a position now to make some refinements to that concept? To be a little more specific about it, there are a number of people who

are interested and spending a lot of time and effort in the matter of legal aid clinics for people, for example, dealing with the Workers' Compensation Board. The Ombudsman has made a report that virtually everybody who appears before the board ought to have legal counsel.

Are you in a position now to make any adjustments in that regard, to expand those kinds of programs or to get out of certain areas and involve yourselves more in establishing that kind of thing?

Mr. Guthrie: It is difficult, Mr. Breaugh, to get out of a certain area once you are in it.

Mr. Breaugh: Yes.

Mr. Guthrie: To defund a clinic or to say that they do not serve a purpose is going to be a very high-profile decision which I do not think we would make lightly. Certainly we are attempting to expand the demands for particular services. As you say, the Workers' Compensation Act is going to require a new look at the clinic system and at the training of the clinic staff.

The Weiler report has given us something to work with and it is my belief the clinic staff is responding to these requirements.

Mr. Breaugh: In a number of areas we have developed in the last few years, either through policies or the structure dictates it, almost a need for legal services other than the normal kind where a client gets a lawyer and goes to court. Particularly in areas like the compensation board, tenants' rights and women's rights matters, around battered wives and abused children, environmental law, there are now groups who in some places have an opportunity to go to a legal aid clinic and get some assistance. There are some legal aid clinics which are established around those kinds of issues. It appears to me that is where the clinics have been most successful.

Mr. Guthrie: That's true.

Mr. Breaugh: Do you have any thought in mind of an expansion of that type of program?

Mr. Guthrie: There are two things you must consider. One is, there is the availability for a group of people to obtain a certificate as a group case on a fee-for-service basis. That is under the legal aid plan as opposed to the clinic system. I have seen it work quite well. On several occasions involving environmental matters there have been group certificates issued to a particular group to provide representation at hearings and it has worked to great benefit.

The establishment of a clinic in response to a particular need has to be weighed against the existing clinics in a particular area or the need for additional clinics for native peoples or whatever.

Mr. Breaugh: In my personal involvement with clinics of

this nature, quite frankly, it is one of the areas where I am quite happy with the work the law society has done and the legal aid system has found itself a very valuable little foundation. In other words, you have made the transition from what we were talking about this morning, from a very staid, traditional system that most lay people don't understand and have great difficulty with, to something which a lot of people have been able to use and around issues that are of great concern to a great many people.

That is an area that ought to be fostered, not that we have discovered an instant panacea to anything, but we have certainly found a nucleus for something which, if nothing else, is great public relations work for the legal aid program.

Mr. Guthrie: We are reacting to the demands, as you say, of tenants, workers or whatever it might be.

Mr. Breaugh: But you are uncertain about any kind of expansion or refinement of that kind of a program at this stage?

Mr. Guthrie: Again, we have certain constraints as to funds. This year we expanded by two clinics. We may expand again by two more next year.

Mr. Breaugh: The flip side of that is--everyone here has heard time and time again that the legal aid system per se is one which has many faults; you have addressed yourself to some of those problems with the mentor system--I have some difficulty in interpreting who qualifies for a legal aid certificate and the process that is there, which I am sure makes eminently good sense to you, but to an outside observer doesn't make a great deal of sense. Are you contemplating some refinements in that regard?

Mr. Guthrie: The system is constantly being refined. We are attempting to streamline the payment, for example, of legal accounts. We are attempting to work closely with the Ministry of Community and Social Services with respect to financial guidelines. We hope that will assist the applicant for a certificate. As to financial guidelines, that matter is set out in the directives to the area directors. I don't know what they are, quite frankly.

Mr. J. A. Taylor: I appreciate what you said in regard to the involvement and assistance of the Ministry of Community and Social Services in developing criteria. My supplementary, pursuing Mr. Breaugh's question, is who in the final analysis determines what the criteria are? I appreciate that you must be influenced through ministerial overtures, if I can put it that way. I was wondering where the final responsibility lies in terms of the criteria.

Mr. Guthrie: I can't answer that. I don't know.

3:10 p.m.

Mr. Breaugh: One of the criticisms which has been levelled against legal aid is that it has a fair amount of bureaucracy, which is reasonably normal for a traditional and

legal profession likes yours to institute, but it would occur to someone who is an observer of it that very often you expend more resources, particularly more money, trying to determine whether they fit the criteria or not. Are you aware of such criticism?

For example, the traditional argument with legal aid from the lawyers I've talked to is to just put more money into the fund. It is extremely difficult to discuss this matter with a solicitor or anyone who is involved in the legal process and try to get any other dimension to it. "There is a way to do things. We do it that way. If you want more, you put more money into the kitty and we will continue to do things the way we see fit." It is difficult to have a little discussion about perhaps changing the techniques, or organization, for establishing criteria, for going through a hearing process, all of that. It seems rather an inflexible attitude.

Mr. Guthrie: I don't see that adding more funds to the pot is the answer. It is my view that the best method of dealing with it is to improve the operation of the bureaucracy which is there, modernize the mechanism for issuing certificates and payment of accounts and dealing with complaints, or collecting the outstanding funds which were pledged by the person who gets the certificate in the first place. There are moneys which are not paid to the plan which the applicant has undertaken to pay. This has to be tightened up. With these conservation schemes you'll have a much better scheme and a much better plan.

Mr. Breaugh: There has been a good deal of discussion across the country of public defender systems and all of the variations of that. Have you looked at that on an Ontario basis, doing away with legal aid as we now understand it and introducing into this province a public defender system as other jurisdictions have done?

Mr. Guthrie: I have no personal knowledge of that. Maybe Mr. Dick will know.

Mr. Dick: I guess it comes from two sides, both previously, when I was on one side of it, and now from this particular vantage point. From the outset of the plan in 1966, that was one of the issues. One of the great debating points after we received the report of the committee on legal aid was the issue of whether or not a public defender system would more effectively serve that public need or whether it would be through the traditional use of a solicitor for services.

The entire Legislature at that time supported the concept of free choice of a lawyer by the individual and the province and the public would look after the payment of the lawyer; the lawyer would make a contribution to the 25 per cent reduction in the tariff, etc., and that would give an individual his choice of a lawyer.

It crops up from time to time. Most recently, I have seen it put forward in an editorial in the Sudbury Star, after the legal aid committee had travelled through the north, in which they suggested the answer to increasing costs was a public defender

system. Our sister province, Quebec, has had a variation of that. They would be frank to admit it is not a more economical way of providing the service. That is true of jurisdictions where it's been tried. It was in our earlier review of it.

There are still those who would suggest it and there are still points in favour of it. At the moment, though, the preponderance of opinion I've received has been that the most important thing is the free choice of counsel. Once you get to a designated counsel, particularly in criminal law, where the individual doesn't have the choice of his or her own solicitor, you are eliminating one of the major features for the protection of the individual. Therefore, from my own perception and I think the society's perception, we feel the free choice of a solicitor is important to the independence and integrity of the advice. That is where it rests at the moment.

Could I add one thing in respect to the administrative overhead? One of the aspects--one that always concerned me in looking at it from the funding aspect of the other position I was in--that has always come back is, again, one that was with us from the inception of the plan. Better than 50 per cent--I think it is almost 60 per cent--of the administration costs reside with the area administration units. Again because of the nature of the plan it was felt at the outset--it has always been this way--that it should not be administered from a central rather insensitive focus, that the administration should be done locally in communities where the bar is different, the people are different and the problems are different. Therefore, we are faced with over 40 separate area administration offices.

Now people have suggested you could cut out some of this bureaucracy and staffing by consolidating offices, but in many parts of our province you just cannot. When you get into the north, as we all know, the distances are too great and you just cannot have any local contact. That has been looked at, I know, by the legal aid plan and they have been concerned about it and they will pursue it. That perhaps is one of the big areas of cost of administration.

Mr. Rotenberg: Can I have a supplementary? You say the free choice of having a lawyer is more important than a person going to a public defender and therefore having a lawyer not of his choice. I would submit that you should consider that having a lawyer not of his choice, just having a lawyer, is better than a system where a legal aid committee can turn down the lawyer of his choice by not funding and therefore a person goes into a court without a lawyer. Is not a public defender system which guarantees everyone a lawyer, no matter what, in a criminal case, better than a system which guarantees him a choice of lawyer but does not guarantee that he may be able to pay the lawyer and therefore not have one?

Mr. Dick: Mr. Chairman, if I might speak to Mr. Rotenberg's question, that is not always the case. There are some public defender systems that are still dependent upon certification as to actual need. Some of the public defender systems in the United States are open to all regardless of need.

In other words, there is no screening whatsoever. If a person wants to use them they can use them with almost casual--

Mr. Rotenberg: I am not talking about financially. There should be a financial investigation, I would agree, but people get turned down for legal aid because someone feels they do not have a proper case.

Mr. Dick: As long as you are going to have financial criteria for the application of either a public defender or a certificate for another solicitor, you are virtually faced with the same thing. You have the same administrative costs of looking at the financial need and so on and so forth, and you also have the cost of maintaining the system.

Mr. Rotenberg: But in the public defender system everyone charged with a criminal charge has a lawyer.

Mr. Dick: If they have the financial need and cannot afford their own lawyer.

Mr. Rotenberg: That is right. But under the legal aid system, a person may not have the financial means to hire his own lawyer and can end up without a lawyer because the legal aid committee turns him down.

Mr. Dick: That could happen with the public defender system too. We could change our system. If it was the decision of the government, the law society and whomsoever was involved, that every person who applies should get legal aid, then the money could be provided. From my own experience of looking at other plans, a person here has as great a possibility of obtaining legal assistance under our system as he has in any public defender system, if he has a financial requirement.

If there is even a small degree of consistency, I put an awful lot of value in the fact, as I say in criminal proceedings, that if I am charged with an offence the state is not telling me what panel of lawyers I use; I can go out and get any lawyer I want if I cannot afford to go out and hire my own choice. That, to my mind, is so fundamental to the prosecution of the offender where the state and the crown are the prosecutors that to move to a public defender is just sort of inconsistent with what we cherish.

Mr. Breaugh: If I may, that is where we appear to be having the problem. The original concept of a legal aid system was where a certificate was granted, if I were charged with some offence I could then get the lawyer of my choice. If that were actually happening, I think the debate would cease. As we all know, that is not happening. Some are taking legal aid cases, some are not.

In my area of the world I think the general rule is you do not get the lawyer you want, you get the one who will take the legal aid certificate. That appears to be part of the problem. What is the problem from the law society's perspective? What is the real problem with the legal aid plan: fees too low, people do

not want them? What is the difficulty with it?

Mr. Guthrie: Mr. Breaugh, I do not know what the problem is. I think the plan is being well served by the bar. I think there has been a complaint by some of the bar that the fees are a little too low. They expected a fee schedule which would keep up with inflation and the other costs of doing business. As I mentioned a minute ago, the slow payment of accounts, which we are rectifying--those are the complaints of the bar, I believe. I think the plan is working well. It has done its job, not to the satisfaction of everybody over the years, but it is doing its job.

3:20 p.m.

Mr. Breaugh: From the point of view of the law society the legal aid system as we have it in Ontario has some difficulties around the edges, but in the main you are still supportive of this approach to it?

Mr. Guthrie: Yes.

Mr. Breaugh: One of the reasons many of us are concerned about the legal aid system is that it would appear to us that there is about to come into place a Young Offenders Act, which is going to cause a lot of people some reason to be concerned and reconsider. What is your estimation of the impact this Young Offenders Act will have on the legal aid system?

Mr. Guthrie: I have no gauge for that, sir. I think it is going to be a very serious impact, but I cannot quantify it for you.

Mr. Dick: May I make an observation on it? I think it was not legal aid alone. The real situation arising under the act as proposed was the age of the young offender being raised, which brought in two additional years within an age group where there is a considerable activity that requires legal advice from time to time.

In that context the matter of cost is going to arise in many ways. It will not only be the handling of the rights of the young offender under this proposed legislation; it would be such that the court would virtually be able to direct that counsel be appointed and counsel will be provided. I do not think it has yet been resolved as to whether that could be provided through a separate agency of the social system or a government system, or whether it would be devolved upon the legal aid system in providing counsel, which would be required under that specific part of the act. The other parts of the act where we have always provided legal aid in instances of juveniles, as they now are, requiring legal advice would always exist, but it is these new features.

In putting the costs together they never singled out, as far as I know, the implications for legal aid any more than they did for the institutional care that might arise, the different types of judicial proceedings in courts and so on and so forth that might be needed. In that context there are figures, but I think

the government's figures are probably more accurate because that is where the assessment was made. We could not, because as the law society we did not know what the decision would be as to who would provide the legal services.

Mr. Breaugh: I get from a number of sources--lawyers and others--that because of this one act, even though there has been a fair amount of discussion about it and considerable lead time, at some point there is going to be an explosion of activity centring on the courts. I am wondering if anyone is prepared for what will occur, or are all of these projections crazy?

It certainly would appear to me that there is going to be a lot more legal activity generated from the Young Offenders Act than we are accustomed to now and that unless we are prepared through a number of agencies, legal aid being one, we are going to have ourselves in a jackpot in a hurry.

Mr. Dick: Again if I might respond to that, the discussions that were going on recognized all of this. One of the greatest additions in the flurry, as you aptly put it, Mr. Breaugh, is that when the age is increased, that, in my last contact with the system, was under consideration. It was already being postponed. I have forgotten whether it was three years before that age change would take effect or what the period was.

The other provisions of the act are going to take effect first and would apply to a group. The whole idea was--and I think part of the discussion on the legislation as it was being dealt with in Parliament was--to make those changes that, if indeed we were going to face that kind of flurry of activity, then we should be given time to prepare that which would be necessary. I think that is still under way but, as I say, I have been away from it for a while so I am not up to date.

There again, no decision had been made at that time as to funding. One of the big things outstanding was that the federal government had indicated it would share in the funding but it would not be able to tell the provinces the extent of it until we had had some experience in the implementation of the act. That, of course, is difficult, because the provinces gearing up for it did not know how they were going to finance it. That is part of the additional legal services and where they would be coming from or financed, so it is still in that flux.

Mr. Breaugh: One of the recurring complaints about legal aid is that it is in fact run by the law society and that when the rules do not seem to be too sensible you wind up appealing to the law society in some form or other to change rules, a process that the law society is not particularly amenable to. Have you ever considered opening up the process slightly?

Mr. Guthrie: Can you give me an example? That is rather abstract.

Mr. Breaugh: For example, if somebody is denied a certificate that person can appeal, but then you appeal to lawyers; and then you can appeal further, but you appeal to other

lawyers. You never get to a board or a group that has, from my bias, a balance. In other words, you can have several arguments with different sets of lawyers if you want, but that can often be a frustrating job for a lay person.

Mr. Jarvis: It crosses my mind that the area committees all have lay people on them.

Mr. Guthrie: Very much so.

Mr. Breaugh: Yes, they do.

Mrs. Legge: So has the legal aid committee.

Mr. Breaugh: The real nub of the problem is, I guess--

Interjection.

Mr. Breaugh: Even my friend Mr. Conway is on the committee in Renfrew county, so I am probably better off in Renfrew than in other places. But it is that central problem that legal aid is not really administered by the province, it is run by the law society, I think that is the problem in a nutshell. People are saying: "I go to legal aid; I want a certificate. They say no. We can appeal it and we will get another no from a different set of lawyers." Or it may go to a board or something that has one or two lay people on there, but in essence you are asking the lawyers again. There seems to be a recurring theme that it would be nice in something like legal aid if it were not totally a plan of the law society. Do you get my drift?

Mr. Guthrie: I think you are not quite correct, though. I think the area committees are mainly lay persons.

Mr. Breaugh: By whom are they appointed?

Mr. Rotenberg: If I may interject, Michael, I have been to several area committees and there are usually four or five people in the area committee having the hearing, one of whom is a nonlawyer and all the rest are lawyers. There is three to one or four to one lawyers to nonlawyers. That has been my experience in a number of hearings.

Mr. Breaugh: Let me rephrase the question. Have you ever thought that something like the legal aid system ought to have at some point in its mechanism a balanced group to hear these decisions so that it is not an individual appealing the decision of the local legal aid board to another bunch of lawyers?

Mr. Guthrie: Your point may be well taken.

Mr. Breaugh: I think in part, if I may just conclude, one of the problems I have with the law society, in questions this morning and in dealings with legal aid afterwards, is that lawyers are by and large well-trained, schooled people who have a mindset. They think in a certain way, and it is damn near impossible to get them to open up to another perspective. They are trained in law, they think in those terms and they have, frankly, very little time

for anybody who is not of that ilk. That is the problem in a nutshell. I think you would be well served to try to accept a slightly different perspective from time to time.

Mr. Guthrie: I take your point.

Mr. Cassidy: Mr. Chairman, I have a number of questions. Perhaps I will begin just by asking--I am not sure to whom I should direct this--if I were to take, let's say, John Turner, Donald Macdonald, Sidney Linden, Ian Outerbridge, Eddie Goodman, Dan Chilcott up in Ottawa, J. J. Robinette and Pierre Genest, just to take a number of eminent members of your profession here in Toronto, what would you say their hourly rate might tend to be? What kind of range would they tend to charge for their services?

Mr. Guthrie: I have no idea.

Mrs. Legge: I do not know.

Mr. Cassidy: Would it be \$200? Would that be a good average?

Mrs. Legge: Probably John Robinette would be worth more than that because he could do more in five minutes than I could do in three hours.

Mr. Cassidy: But would \$200 be the sort of figure you are talking about?

Mrs. Legge: I have no idea.

Mr. Cassidy: What is the prevailing rate, then, let's say here in York county, that your society either judges from your surveys or else you then list as being the prevailing hourly rate that lawyers get?

Mr. Guthrie: I think it depends, Mr. Cassidy, on the type of work, the type of person, the success achieved.

Mr. Cassidy: You do not keep figures on this? Is that right?

Mrs. Legge: We do not know what they charge. It is probably true, Mr. Cassidy, that the cheapest lawyer is the best lawyer.

Mr. Cassidy: I am sorry?

3:30 p.m.

Mrs. Legge: My experience is that John Robinette is the least expensive lawyer you can go to--somebody of that calibre, because they work so quickly and so well.

Mr. Cassidy: Especially when they are in court and the procedure is going on for several days, whether the lawyer's fees are low or high, you cannot necessarily shorten the procedure.

Taking those eight or 10 people I just mentioned, could you give me an estimate of how much time they might spend doing legal aid work?

Mrs. Legge: I do not know. Do you know, Mr. Guthrie?

Mr. Guthrie: I have no idea.

Mr. Cassidy: Let us take John Turner, for example. How much legal aid work does he do?

Mrs. Legge: You would have ask John Turner. We do not know.

Mr. Cassidy: Since he does not do legal aid work, what contribution does he make to the costs of legal aid?

Mr. Guthrie: The interest on his trust account, of course.

Mrs. Legge: Yes.

Mr. Cassidy: Apart from that.

Mr. Ground: I suppose through his taxes he makes a considerable contribution.

Mr. Cassidy: So do I and so do the reporters here.

When you look at the figures, you find that 80 per cent of the legal aid work in the province is done by 11 or 12 per cent of the members of the bar of Ontario. That is according to the figures you have here. Those lawyers who do legal aid work and do the bulk of it have to contribute 25 per cent of the tariff towards the costs of legal aid. Do you think it is fair that those lawyers should contribute, by your figures, a minimum of \$11 million towards the costs of legal aid when there is no comparable contribution at all from the remaining 90 per cent of the profession? Is that fair?

Mr. Guthrie: Mr. Cassidy, that discussion has come up on previous occasions within the legal aid committee. As to the noncontribution from those who do not perform--and I think Mr. Ground has indicated fairly well that perhaps they pay it in their taxes or perhaps they pay it in some other form--I do not do any legal aid work yet I contribute to the legal aid committee about three days a month, clinical funding about two days a month and that is my contribution, for which I receive no remuneration or no financial compensation whatsoever.

Mr. Cassidy: It is a point that all of you are active in the affairs of the law society and I presume a great deal of that is done on a voluntary basis.

Mr. Guthrie: All of it.

Mr. Cassidy: That does not really answer the question, which is that if 1,800 lawyers in the province are doing the vast

bulk of legal aid work, that means 13,200 lawyers in the province are doing either none or next to none and they are making no contribution in that way.

Mr. Ground: That may not be intentional, Mr. Cassidy. When you go on a legal aid panel, you go on for certain particular purposes in certain fields of law. The vast majority of legal aid certificates, I would think, are issued for criminal matters and/or family matters.

Mr. Cassidy: Correct.

Mr. Ground: I do not know about John Turner, but I would not recommend that anybody retain me on a criminal matter or a family matter. I know nothing about the area, and that is probably true of a very large percentage of the profession.

Mr. Cassidy: Here you have a profession where, certainly in the public mind, let us face it, you are an essential part of the system of justice in the province, and the system of justice in the province, when you think of it, relates to personal security, relates to crimes under the Criminal Code, relates to such things as really important matters that get right to the nub--family matters and so on. If you ask people to rank things in order of priority, they would say that is a lot more important, even if less lucrative, than the conclusion of vast contracts in order to finance things in the Cayman Islands.

Mr. Ground: I could not agree more. All I am saying is, people may be well served and better served by the 12 or 20 per cent of the profession who are taking the legal aid work, because those people have experience in the criminal and family law fields, which I will bet you 70 per cent of the profession do not.

Mr. Cassidy: But what bothers me, and to some extent this gets back to the earlier discussion, is the fact that the 80 per cent or 85 per cent of the profession who either do none or do a just handful of legal aid cases per annum make no direct contribution. As you know, there is a double sacrifice involved, relative to other legal work, in doing legal aid. In fact, it's a triple sacrifice.

In the first place, there is a 25 per cent cut--the contribution. In the second place, although the original conception was that the legal aid fees would be set, although it would be paid by a client of modest means, that link has been broken a long time ago. Therefore, there is a second sacrifice: that is, that even the legal aid tariff is of the order of anywhere between one third to a half what would be charged to a client of modest means employing the lawyer for--I see you agree with me, Mr. Ground.

The third thing is that in the case where a case turns out to be somewhat difficult there are any number of restrictions in terms of block fees and in terms of maximum number of hours and that kind of thing involved in legal aid, which essentially mean that at the very low rate the lawyer is getting in a legal aid case he is not even paid for all of the hours that he puts into it.

I am sure that you would argue that with lawyers whose bill is running at \$100 an hour that happens for them too--I suspect that is true--and that not every hour worked for a client is a billable hour for various reasons. None the less, there is a double or a triple sacrifice there on the part of these lawyers who are really doing an essential service which I feel is important, not because I intend to get in trouble with the law. But none the less, the standard of our justice system is one way by which we are judged as a society. As you know, 70 or 80 per cent of the people on criminal charges wind up, because of their means, working with the legal aid system.

So why is the rest of the profession not prepared to make a direct contribution to the costs of legal aid and why does it instead, in such an inequitable way, impose these sacrifices only on that group that is prepared to take on legal aid cases? What are you going to do about it?

Mr. Ground: On your suggestion that the 80 per cent of the profession does not participate in legal aid, I am saying most of those 80 per cent probably do not have training in the areas where legal aid operates. Is it your suggestion that they have an obligation to make perhaps a yearly financial contribution to legal aid, over and above any obligation on the rest of the populace to make a similar contribution?

Mr. Cassidy: I think so, yes. Because of the nature of your legal monopoly and because of the self-governing powers that were given, as we were reminded, in the reign of George III, to your society, those lawyers are extremely fortunate members of society. I do not deny that in many cases they work hard. None the less, they are privileged, both in terms of status and also in terms of income.

It was agreed back in the 1960s that this scheme would be set up. It was given to the law society to administer, because you are a self-governing profession, because you did not want state control, public defenders and that kind of thing, and it seems to me that commensurate with that, all of your profession should be prepared to play a part and to contribute a share.

I agree with you. It may well be that John Turner is not the fellow to defend you on a careless driving rap. But at the very least, a financial contribution would create something more equitable as between lawyers who literally are heading--what is it now? A lawyer with five years' experience who is practising at the current legal aid rates, if you assume--it is not safe to assume--that his or her overhead rate is the same as people making \$70 or \$80 an hour--and that is not a safe assumption, because half of \$80 is a lot more than half of \$40--a lawyer in that situation, according to the statistics that I have seen, and billing 1,300 billable hours a year, which is about the maximum you can get, would make \$17,000 net if they practised in the high courts and \$14,352 net if they were practising in the lower courts and doing only legal aid.

Mr. Guthrie: That is on the assumption they do only legal aid, though.

Mr. Cassidy: That is on the assumption they do only legal aid. That is right. But essentially what we have is a system of specialization where a small group--1,000 or so lawyers--are largely concentrating on legal aid. If they spend only half their time on legal aid, then presumably they earn \$7,000 for half of their time as lawyers and they have to try to make up the rest. As they try to make up the rest, does that mean their clients may be just a step above the legal aid category and they are the ones who have to help the lawyers to pay that? Obviously these legal aid lawyers are not doing corporate law at McMillan Binch on the side.

Interjection: Is that gross or net?

Mr. Cassidy: I am saying net. This is after an allowance for overheads.

Mr. Dick: Mr. Chairman, I was just going to make one or two observations, if I might. I am rather concerned. When I was called to the bar we had legal aid, but you did it by just going down on a volunteer basis. I was working for the government, so I could not do counsel work for an individual. But I used to go down every Monday night on panels. That panel selected people whom they interviewed and if they thought they deserved legal aid, then we would send them off with a letter to the sheriff of the county of York and so on. It was primitive, but it gave me an insight. That insight continued as the system developed.

3:40 p.m.

You mentioned some lawyers who are known to us all by name and reputation, but I could mention names of two law firms the counsel for whom do legal aid. That is perceived by their partners who recognize that time is not being billed at the firm rate, but still it is a good thing. I do not know how many firms do it. That is not disclosed ordinarily in the kind of statistics we get, but I know the two individuals personally and it is just one of their own credos that while they are counsel for these very substantial firms, they are still going to do some legal aid.

There is a second thing I might mention, and it has been true of the legal aid system and it did work out that way. Criminal law has always required a core of the bar who enjoy it and will become skilled at it because there is a tremendous volume of it, and it is not an attractive practice to a lot of people. I think this is reflected in the number of younger lawyers we see. It is true that practice and economics of practice may be driving them into that area, but I know a lot of them, because we sought through the crown attorney's (inaudible). There are a lot of young lawyers and because they are young and new to the bar does not mean that they are not giving excellent advice, as I think you would agree, to the people they are serving.

That has been true of the assistant crown attorneys. We train an awful lot of the good criminal lawyers in the country. They come to us as crown attorneys with the government here and they work for us for six years, get a tremendous grounding in

criminal law and then go into criminal law practice which they enjoy. That accounts for some of the youth in the group.

Then I did mention the other point. The amount of experience and the amount of time given and whatever is not the only criterion for legal aid. An awful lot of legal aid applications and the work that is done is work that is very admirably capable or they are of a nature to be looked after by a lawyer of experience enough to deal with that kind of thing without the others. I think that a lot of the areas as I understand them, Mr. Guthrie, are very conscious of that and making sure that a serious case or one involving something of some complexity and so on is sort of slated off to a lawyer in the area.

Mr. Guthrie: Very true.

Mr. Dick: Outside of Metropolitan Toronto that is done very easily because for many years before the plan came in we had virtually ensured that no person went without counsel in a criminal matter.

I just mention those observations because the statistics are quite right. For my own part I think that the great fault perhaps in the government, myself when I was in my other job and all the rest of it, was that we did not follow the tariff on a more regular basis and ensure that it was raised because it was dealt with and the lawyers were not pushing at it and so on and it just sat for too long, until in an era of high inflation it got out whack very quickly and then we were faced with a very substantial increase--

Mr. Cassidy: With respect, the questions which Sean was asking earlier are germane to this because of the fact that the concerns of those younger lawyers who were more likely to be doing legal aid cases were not adequately reflected through the convocation of your law society. Mr. Ground is shaking his head yet it is a fact that through the 1970s those increases were not made over the time from the beginning of the legal aid plan. The cost of living has gone up 150 per cent and legal aid fees have gone up about 50 or 60 per cent.

Mr. Ground: Because they were not made, that does mean they were not asked for. They were very much asked for by the law society.

Mrs. Legge: We do not make the increases; we just ask for them and we did ask.

Mr. Ground: We may be criticized in some areas, but to be criticized for not being vigilant in trying to get the legal aid tariff increased to a reasonable level to keep up with inflation is a bum rap. We do not deserve that.

Mr. Cassidy: I am sorry, Mr. Ground, but I am not aware during the 1970s of recalling the law society making those representations, although you certainly did propose and were disappointed not to get a 30 per cent increase in the most recent round when the government imposed its five and five on the legal aid tariff. It is a scandal in fact what has happened there.

I would suggest as well, from having looked at things in this area, that there are a lot of other problems apart from the basic hourly rates. Although I am disturbed at the fact that you sort of gave a soft answer and did not want to talk about hourly rates that arose in another field, I am not going to come and say it is a scandal, but it is a fact that in family law, for example, the prevailing rates around Toronto would be of the order of \$75 to \$100 an hour; in the criminal practice the prevailing rates in Toronto would be of the order from \$75 to probably \$150 an hour; and in civil matters the prevailing rates would probably be the order of \$80 to \$200 an hour depending on the kinds of things you are doing.

Mr. Ground: Those figures may be quite right. It sounds in the ball park to me.

Mr. Cassidy: Right.

Mr. Ground: You asked us about specific lawyers.

Mr. Cassidy: Yes.

Mr. Ground: I cannot tell you about that.

Mr. Cassidy: My point is, in the first place not only do these lawyers do legal aid, I believe the basic rate now is \$44 an hour. There are all kinds of administrative harum-scarum to which the lawyers get exposed as well as the client because the lawyer says to the client, "Look, I will take your case. Go and get yourself a certificate." Then the certificate does not come. There is extra time involved there. That is unpaid time. If the client has a strong case and the lawyer believes that the case should be heard and it is going to go to an area committee for appeal, the lawyer does not get a nickel. If the lawyer comes along with the client in order to argue that the case should be made eligible for legal aid, there is a whole series of problems there. Then there is an added series of problems when you come to the way in which the legal aid payment system squares with what actually happens in court.

Again, I have talked to some lawyers about this and I hope you have. You are lawyers yourselves and to the extent that you have been doing court practice, some of these are part of the frustrations of your normal daily life anyway. It is an inefficient system and a lawyer can unfortunately sit in court for half a day, then find that a trial that was meant to go quickly goes on and at the end of the day they have to seek an adjournment, there is no time to hear the trial--\$20, that is 25 per cent under legal aid.

Or the lawyer may go into court, having spent hours preparing a case for which there is a block fee and be ready to go with the case, but just prior to the hearing the crown comes over and it turns that the crown is prepared to do a bit of discussing about a guilty plea or not. The plea is changed from not guilty to guilty on a lesser charge, a bit of plea bargaining takes place,

it happens, and the case itself only takes a few minutes, but all of the preparation was still required and suddenly the fee for the time the lawyer spent is cut from say \$250 to \$100, \$150 or whatever, less 25 per cent.

These kinds of things are extremely arbitrary. I am told that if you are a lawyer like Eddie Greenspan, Clayton Ruby or someone like that, and you are taking a legal aid case, you can go and you can argue that it is complex and you can get a (inaudible) increase, but my friends tell me that people of that stature and reputation have a hell of a lot easier time getting (inaudible) increases than other people who may not be as well known, yet they will likewise put a similar amount of effort into the cases.

There is pressure now probably because of the (inaudible) in the courts for negotiation in certain cases. This is particularly true in family matters. In family matters there is no recognition of the amount of effort and energy that can go into that area that is reflected in the fee schedule. In family matters the incomes tend to be lower because family practice is not as rewarding as other practices. The practitioners have less income from nonlegal aid work to kind of cushion them over and keep them going. The cases can at times last far longer than criminal cases because of adjournments and efforts to seek resolution or reconciliation, etc. There is no interim billing allowed which would happen with the private client.

Your society is responsible for administering legal aid. These are grievances which include the level of payment, but they include other things which are both frustrating professionally and unfair in equity. They make it more and more difficult for lawyers who want to provide a first-class service under legal aid when they are treated in a third-class manner.

I would suggest that your society is not doing what it should in order to bring these matters to public attention. The fact that it got to the extent where a number of practising lawyers, who are prepared to take legal aid cases, who were of the type that Mr. Dick referred to, who were prepared to make that commitment and even if young, who can do so certainly with commitment and hopefully with talent, actually had a stopout or study session where they refused to take cases earlier this year, suggests the degree of frustration that exists there. I suggest that is being treated with complacency rather than with concern from your society.

3:50 p.m.

Mrs. Legge: No such thing, Mr. Cassidy; I am sorry. We do not accept that criticism. We were very concerned about that stopout and we were very much aware of it. We know the lawyers involved. I went to one of the meetings they had and their concern had to do with the increase in the tariff. They wanted more money and we asked for 30 per cent. The law society had been pressing for it and we got, what?--five or six.

That was the reason for it. I can tell you that we were as concerned, and still are, as they are. I am concerned about it.

Many of the things that you have said are quite true and we are concerned about it and we are trying to rectify it.

Mr. Cassidy: What the devil are you doing about it, Madam Treasurer?

Mrs. Legge: We are trying to get the tariff up and we have already--I think Mr. Guthrie can answer that.

Mr. Guthrie: Mr. Cassidy, what concerns me is you have made a number of comments there, for example, the (inaudible) increase which is available to the experienced criminal lawyer and not available to the other practitioner. I was not aware there was that wide difference.

Mr. Cassidy: More easily available. It is not my network, but what I did was I made some phone calls and I talked to some people and said, "What is going on?" This is what the network of lawyers I have been talking to are saying.

Mr. Guthrie: It is perhaps very helpful to us and when the transcript comes of these proceedings we will note that you have commented on these various points and they can perhaps be addressed by the committee.

Mr. Cassidy: It is not as though this is all suddenly discovered.

Mr. Guthrie: No.

Mr. Cassidy: I talked to people in family law. I have talked to people doing criminal law and I repeatedly kept on coming back to the same thing, which is, it is not just pay; it is also all of these things which affect working conditions and professional conditions.

The kinds of limits--six hours here; well, six hours could be spent easily in a child welfare case just with the initial interview, trying to find out what the parents, the child and the social worker are trying to come up with. Then, my goodness, you have got to go and study the law, you have got to prepare the case, you have to do all the other things, and you have already reached the limit in terms of the number of hours that is to be allowed under the tariff.

Mr. Guthrie: But you are entitled to go and get relief from that.

Mr. Cassidy: But going to get relief means you have to put up your hand and say, "Please can I have relief?" I do not know the way in which those exceptional circumstances are dealt with, but I do know in my job if every time a job took a bit longer than I expected, I had to go and ask someone, "Would you please pay me for the extra time I will spend on that particular thing?" it would be enormously frustrating, particularly when there are delays in decision-making and, as you indicated you are aware, delays in payment from the legal aid administration.

Mr. Guthrie: If I can repeat myself on the matter of payment, that apparently is being streamlined and will be much easier for the official very shortly.

Mr. Cassidy: How much is the delay now?

Mr. Guthrie: About four months behind.

Mr. Cassidy: You see--

Mr. Guthrie: If you will bear with me--

Mr. Cassidy: I am sorry but if I can just comment, though, it may have been Mr. Vogel's report, it may have been the one from last year which said: "We are getting this sorted out. We have it down. James Chadwick has it down to two months." Now it is back to four months ago." In other words it is, Plus ça change, plus c'est la même chose.

Mr. Guthrie: We also have now got a scheme by which the account of \$900 or less will not be reviewed, as it will be paid without study and comment by the taxing officers, which will mean in the application for payment, the multitudinous forms which we had in the past have been simplified into one simple form, which will again--

Mr. Cassidy: I hope that works. As in so many of these things, if somebody is billing you regularly at the rate of a couple of thousand dollars a month, it would make sense to give them a retainer in the sense that you pay them \$1,800 a month, assuming that is what their level of practice is and sort out the paperwork after you pay rather than before. That might be fairer, particularly for those young lawyers who may find themselves \$30,000 in debt before their practice begins to take off.

Mr. Guthrie: The only comment I make on that, Mr. Cassidy, is a lot of us in private practice have to wait four months for our fees as well.

Mr. Cassidy: Let me raise some other questions which have been raised with me. The one case, and I will cite a particular case, I can get more details if you want to chase it down, but it raises a real question and that is that this is not just one; I am told it happens on a number of occasions, where the area administrator calls in counsel for two parties in a divorce case and listens to the case, listens to the proposed remedies or what is likely to come out, and then in effect tells the party who the area administrator thinks has the weaker case, "Look, you had better go along with the solution of the other side or I am not going to grant your certificate."

Mr. Guthrie: I am not aware of that practice.

Mr. Cassidy: I will pass that on to you if I can, but again this is what my network is telling me.

I cite another case of a prisoner who was transferred from Kingston to the far west, to British Columbia because of an incident in one of the prisons there. Both the prisoner and his immediate family, who were in the area, protested terribly because it was cruel and unusual punishment. It would have meant no contact with the family at all over the course of the remainder of the sentence.

The case was taken up, an application was made for legal aid, the administrator checked out with a prison official and said, as I understand it" "Look, I have this case coming up. They say this, that and the other thing. Tell me about it." On the basis of talking to the other party, he then proceeded to deny the certificate and therefore made it impossible to have the--

Mr. Guthrie: Again I am not aware of it, Mr. Cassidy.

Mr. Cassidy: As a lawyer, does that not disturb you?

Mr. Guthrie: Yes, both of the cases bother me.

Mr. Cassidy: Well, you see now, your law society, your--

Mr. Guthrie: If we don't know about it--

Mr. Cassidy: You have a convocation which is 93 or 94 per cent made up of members of the society. Your area committees--I am sorry, but I just had a look at this--

Mrs. Legge: Mr. Cassidy, why did the persons who had been aggrieved in that manner not let us know? That was never brought to our attention and, had it been brought to our attention, I can assure you something would have been done about it.

Mr. Cassidy: I do not know. I am just being told about cases.

Mrs. Legge: You see, we cannot act on things if we know nothing about it.

Mr. Cassidy: Let me put this to you, Madam Treasurer. I just had a look in your report here, Ontario Legal Aid Plan for 1982, I think it is, and looked at the appeals going to the area committee and the pattern across the province. What I found interesting and concerning was the fact that there is no regularity to the pattern. Within some statistical moving around, one would assume that, if there is a relatively similar kind of administration by the area administrators, about the same proportion of their decisions would be appealed in each area of the province.

In fact, the level of appeals is about eight per cent across the province, but it is 16 per cent in Ottawa-Carleton and it is as low as one per cent in Wentworth. That is a very large variation and that suggests to me there may not be adequate information about the appeal process or that the word is out that

the appeal process is not effective in certain parts of the province, or that there are some other problems. I cannot say what they are.

Mr. Guthrie: It seems to be a generalization. You cannot rationalize one with the other without simplifying the problem to a very basic level. I suspect there is some basis to it if we examine it.

Mr. Cassidy: I think you should examine it and I speak there as somebody who looks at government statistics and so on, rather than someone learned in your profession. When you get variances or variations of that degree, I would be asking questions. Maybe the people in Wentworth are so free and easy with their certificates that nobody ever needs to appeal.

Mrs. Legge: It could be.

Mr. Cassidy: That may be true, but none the less, I think the reasons for that should be explored.

Mr. Guthrie, you said you thought that the area committees were broadly representative of the community and I took one at random, Timiskaming. In Timiskaming there were something like 18 or 19 barristers and solicitors and crown attorneys and four members of the public. It is almost the proportion you have on your convocation.

There is an actress in Mike Breaugh's area who is on the committee. More power to her, but basically the public is not heavily represented on those area committees at all and they are conceivably one way by which this review, which I think you need, should take place, but it is not taking place now.

I am hearing tremendous concern over the discretion which is employed and is able to be used by the area administrators in making decisions in essence to the point where it seems that they are becoming a kind of quasi-court determining whether or not an applicant can get legal aid and therefore whether they can have access to the courts.

4 p.m.

Mr. Guthrie: I have made a note of those two points, Mr. Cassidy.

Mr. Cassidy: I feel frustrated by this process. You folks come here once every five or six years. It is unfortunate that under our rules, not yours, the Legislature carries out these sessions only extremely rarely. I don't want to resort to Mr. Conway's rhetoric--I am not sure if I can--but I feel that some further kind of penetration of outside concern is needed as far as the law society is concerned with respect to matters generally and with respect to legal aid in particular. To some extent I want to see you as allies on behalf of the people that Mike Breaugh and I represent, people who have need of legal services and yet who have only the barest minimum under the provincial scheme here in

Ontario. They need some defence and that means they need some advocates on their behalf. It would be good to see the leadership of the legal profession in the province emerging in that role of advocacy.

Mr. J. M. Johnson: I have just one question. You have been very patient today. I know you must have some desire to head home. I have a question regarding quality of service. In the fact sheets presented by our researcher, there is a comment made that the quality of service under the plan is not as high as it should be because it is using junior and inexperienced lawyers rather than Robinettes.

I then refer to the fact sheet we have on hand and it says the majority of lawyers, over half, participating in the plan, had four to 12 years' service, 23 per cent had one to three years' experience and 22.6 per cent had over 12 years' experience. That would break down to half with approximately seven, eight years and 25 per cent less and 25 per cent more. That would seem to me to be a good mix.

Mr. Guthrie: Yes, it is.

Mrs. Legge: Sure it is.

Mr. J. M. Johnson: I question very much if any member of the public who is paying for their services would receive any better proportion, would they?

Mr. Guthrie: With the mentor program in place, it would be a further safeguard.

Mrs. Legge: And I assure you that many senior members of the profession do legal aid. I know.

Mr. Breaugh: Have you any record of that?

Mrs. Legge: Mr. Johnson just gave you--

Mr. J. M. Johnson: It is on page 27, Mike.

Mr. Breaugh: Yes, I read that, but I've heard you say on a number of occasions now that you and many other senior lawyers are working for nothing and participating in the legal aid program. The statistics tell us numbers but they don't tell us who. I wonder if we have ever done a--

Mrs. Legge: I can't tell you either. I know we have always done it. I have talked to many other responsible lawyers who have always said that no one has ever come into their office who needed legal help who went away without it.

Our generation was practising in the days before legal aid. Legal aid was literally legal aid. At that time, the general practitioner in this province, all over the province, was probably doing a certain percentage of work for nothing or for very reduced fees.

Mr. Breaugh: Excuse me for pursuing this, but it must be a difficult thing to get a handle on. All I've ever seen are percentages and numbers based on years of experience and things of that nature. Yet the criticism is persistent, that you don't get good lawyers under legal aid; you don't get the top-flight lawyer. I keep talking to lawyers about that. They usually give me what you've just given me, "Well, I do it," or "My firm does it." Is there anything the law society has done to put a nail in this, if it is a myth, about the quality of services provided under legal aid?

Mr. Ground: It is perhaps a myth. You may not always get Clay Ruby when you go to legal aid, but if you look at the statistics, there is a reference to the 5,000 lawyers who billed the plan to March 1981. I assume this is on some kind of an annual basis. In that year there were only about 10,000 lawyers in private practice in the province, which would indicate that about half the lawyers in the province are participating to some extent in legal aid.

There is another statistic, that 53.5 per cent of the lawyers had four to 12 years' experience. That's not bad. Most lawyers with four to 12 years' experience are going to give you more than adequate service in the areas of criminal law and family law if they practise regularly in those areas.

It may be valid to say the leaders of the bar are not participating in legal aid, although we all know of instances where leaders of the bar have participated. I can't imagine it is correct to say, looking at these statistics, that one doesn't get good-quality legal services through the legal aid plan.

Mr. Breaugh: It would be a difficult thing, I grant you, but it would be worth while for the law society to give some thought to addressing itself to what is, believe me, a widely held perception. If it's wrong, it certainly would be in your best interests to establish what numbers have failed to establish, that it is a myth, not reality.

John and a number of other people have attempted from time to time to try to provide a statistical analysis that addresses itself to that problem but in many respects it misses the mark completely. I don't how you will do this. But since you are the brightest minds in the world I am sure you'll find a way.

Mr. Guthrie: We'll have a look at it.

Mr. J. M. Johnson: I have one short question. In this pamphlet, the 1982 report on the Ontario legal aid plan, are listed area committee members. Are these lists of solicitors who are taking part in the program?

Mr. Guthrie: These are the area committees. These are the ones who are deciding on who gets the service.

Mr. J. M. Johnson: They are active in the plan?

Mr. Guthrie: Some of them are, yes.

Mr. J. M. Johnson: The only comment I would like to make is that I know some personally in my area who might be considered some of the top lawyers in my part of the country that I am pleased to see involved.

Interjections.

Mr. J. M. Johnson: They are all good Tories.

Mr. Rotenberg: Mr. Chairman, I want to deal with some of the nuts and bolts of how legal aid operates. Mrs. Legge or Mr. Guthrie made a comment about some things had not been drawn to their attention. Maybe there are some things happening in the privacy of the legal aid director's office that maybe the law society doesn't know about.

I want to go through the procedure and ask some questions about why the procedures are the way they are, and maybe they should be changed.

Starting with section 12, the act says, "Except as otherwise provided in this act or the regulations, a certificate shall be issued to a person otherwise entitled thereto in respect to any proceeding or proposed proceeding in the Supreme Court, in a county or district court," etc.

My reading of the act and regulations indicates the only "otherwise provided" matters are two. One is that he must be financially eligible, and second the case must not be frivolous. Are there other provisos where a certificate could be refused to an applicant under subsection 12(1) of the act, other than frivolous, as in the regulations and the qualification of section 16 that he has to prove he is financially eligible?

Mr. Guthrie: You've been doing your reading, Mr. Rotenberg. I don't know. I suspect you've put your finger on it, but I wouldn't want to say that was the only consideration.

Mr. Dick: Could I just make an observation? I am sorry, but I think a lot of this stems from my earlier career rather than the law society's--

Mr. Rotenberg: That's fine.

Mr. Dick: Those sections of the act have not been changed a great deal in their substance since they were put in. The whole theory of it--and it is reflected in the subsequent changes--was that legal aid would be provided on a mandatory basis in those cases where the liberty of the individual was obviously going to be at risk and where the circumstances were such as to merit that. In generic terms, you will notice an application to have a person declared a habitual offender, a dangerous offender and that kind of thing is mandatory.

Mr. Rotenberg: Some are criminal and some are not. In the county court or district court, they may not be criminal cases.

Mr. Dick: But there will be important civil cases and there are important criminal cases. The mandatory ones went one

route; then there were the ones that were discretionary. If you analyse the technical language that is used for the Criminal Code and these other things, they get down to a lower-level offence, so to speak, with lesser offences, and you are into the Provincial Offences Act and so on. That, to my mind, was the basis upon which they were put.

4:10 p.m.

Mr. Rotenberg: I do not want to belabour the point. I am trying to relate what the theory is as against what the practice is. It seems to be the practice when the person goes to legal aid, having a court case pending--let's talk about civil cases; it may be a little more difficult in the criminal cases. The first thing the legal aid director says is that he wants an opinion letter from a lawyer as to whether or not this case has merits--maybe not in all cases, but in cases I have been aware of.

So you are taking it in two stages rather than one stage. The person first has to get a certificate to get an opinion letter; having gotten the opinion letter, he then has to go and have the opinion letter analysed and get a certificate for a thing to happen.

Now, reading the act, which says that if the case is not frivolous, you should get a certificate, I am wondering what is the theory and advantage of these opinion letters.

Mrs. Legge: No, that is not how it happens. The client comes in with a certificate, and we always look at it. If it has a red stamp on it saying, "We want an opinion," we talk to the client. If we feel the client has any kind of claim at all or any meritorious problem that deserves looking after, we write a letter to the area director and they send us out a little card and say, "Proceed." The client does not have to do anything further.

Mr. Rotenberg: What I am wondering, with respect, is why we have that process of having to write the opinion letter.

Mrs. Legge: We do not always have to; it is only in certain cases. That is what I say, Mr. Rotenberg: We always look to see if it has a red stamp; frequently it does not.

Mr. Rotenberg: All right. It is my understanding that a person in applying for a certificate does not necessarily have to name the lawyer to whom he has taken that certificate. Is that correct?

Mrs. Legge: That is correct.

Mr. Rotenberg: In other words, if an area director asks, "Who is your lawyer?" the person (inaudible) even if he does not name a lawyer.

Mrs. Legge: Correct.

Mr. Rotenberg: Under subsection 16(8) of the act it says, "An area director may at any time cancel any certificate or

provisional certificate issued by him." He may cancel a certificate and he may refuse to issue a certificate. My understanding from this is that a person has an appeal to the area committee for a cancellation of a certificate or refusal to issue a certificate.

Interjection: Yes.

Mr. Rotenberg: We have another situation here. Under subsection 16(7), it says, "An area director in issuing a certificate or provisional certificate may impose such terms and conditions as he deems proper." My understanding is that there is no appeal from the area director's decision as to what conditions he imposes on a certificate. Is that your understanding as well?

Mr. Guthrie: I have no idea.

Mr. Rotenberg: You can get a situation where a certificate is issued--this is one of the complaints made by some of the other members--certificates are issued, but area directors put conditions on the certificates restricting the work that a lawyer can do on such a case or saying, "You can only do so much work and you have to report back to me before you complete the case," and there is no appeal from the area director's decision to the area committee on the conditions that may be imposed on a certificate.

Now, if my reading is correct, do you feel this is a proper situation, or should there be some look into the practice or the legislation?

Mr. Guthrie: It would be worth looking into.

Mrs. Legge: It does not sound right to me.

Mr. Conway: Excuse me. Did I understand the panel to say that none of the panel was aware as to whether or not there was an appeal to anybody from the area director's limitation on the certificate?

Mr. Guthrie: I am not aware of it, Mr. Conway.

Mr. Conway: I just wondered.

Mr. Rotenberg: My reading of the act is that there is not.

The next thing: I will read subsection 16(7) again: "An area director in issuing a certificate or provisional certificate may impose such terms and conditions as he deems proper." I have found in practice that not only is it in issuing a certificate but that after the certificate has been issued, from time to time the area director will impose conditions.

Mr. Guthrie: Are these financial conditions or conditions of--

Mr. Rotenberg: No. In other words, a certificate is issued, and then further on the area director will say to the

lawyer, "Do not do any further work until you get my approval for the work," which is the condition of the certificate.

Mr. Guthrie: Perhaps there had been some sort of change in circumstances.

Mr. Rotenberg: My point is--and this is why a number of lawyers have opted out of the legal aid plan--that a number of lawyers have told me personally that they will not do any more legal aid work, not because of financial problems but because, "The conditions are put on me in such a way that I cannot properly serve my clients."

Mr. Guthrie: There is too much red tape.

Mr. Rotenberg: Not too much red tape. You get a certificate; the lawyer is restricted by the legal aid area director in how he can handle his case. I will give you an example of that in a moment if you want.

Do you feel it is proper, once a lawyer has been issued a certificate to go ahead and handle a case, that should there then be restrictions at a future time placed on that lawyer? Or should the lawyer have the discretion as a member of the bar to handle that case in what he deems the best interests of his clients or the best interests of the public? Or should the area director be able to say at some future date, "You cannot do this procedure or that procedure?" Or should the area director be able to impose upon the lawyer: "Here is your certificate, but only up to this coverage, only to this point"? Or "If you want to do more work than this, you must come back and get my permission."

If I go to a private lawyer, I do not get those conditions. Is that a proper way for a lawyer under legal aid to be hampered in serving his clients?

Mr. Dick: May I make an observation about that? This section is one that again has been around for a long time. The problem is that some of these actions--we have them on our own--can be instituted and go on for three or four years. In those years changes take place. Sometimes it is something, perhaps, where the lawyer has a problem; sometimes it is the client. In our case another of the features is whether the person has suddenly come into an inheritance or something else and is now qualified and able to pay his own solicitor, who will be that solicitor, etc.

Mr. Rotenberg: No, I am not talking about financial situations.

Mr. Dick: I do not know what types of conditions they are. But just to answer your hypothetical question, I think it is absolutely essential to have some control over a certificate that is granted and can be in effect for an undetermined period of time. Otherwise you have no way of getting a matter cleared up on behalf of a client who complains and says the solicitor is doing nothing or whatever.

Now, if it is being abused, I am sure that anybody here would like to be able to know if there are certificates that have

odd conditions that have prejudiced the solicitor. I have never heard of any, and I have been here a little while.

Mr. Rotenberg: If a certificate is cancelled or refused, though it is not put in the act, should the applicant be given the reasons for that cancellation or refusal?

Mrs. Legge: My experience is that they are. I had a certificate cancelled not so long ago, and I was given the reason. The legal aid discovered that my client had a good bit of property he had not disclosed.

Mr. Rotenberg: What I am asking is, should the reason for the cancellation or refusal be given to the solicitor and/or the client at the time it is cancelled or refused?

Mrs. Legge: I think they are, are they not, Mr. Guthrie?

Mr. Guthrie: Pardon?

Mrs. Legge: When a certificate is cancelled, are the reasons not always given to the client and to the solicitor?

Mr. Guthrie: That was always my idea.

Mrs. Legge: I have always received them, Mr. Rotenberg.

Mr. Rotenberg: All right. I will just proceed. Now, when the client appeals to the area committee, in my understanding that is a hearing under the Statutory Powers Procedure Act.

Mr. Guthrie: I do not think so.

Mr. Dick: Who appeals to whom?

Mr. Guthrie: The client.

Mr. Rotenberg: A person is refused a certificate by a director; he appeals to the area committee. That hearing, I believe, is under the Statutory Powers Procedure Act.

Mrs. Legge: I am sorry, I am not exactly expert in procedure, but I have done appeals from a certificate that has been refused. We have done it by way, really, of affidavits sent in by mail and we have been granted a certificate. I have got an affidavit pointing it out. I do not know what the--

Mr. Dick: The Statutory Powers Procedure Act has certain provisions that govern what kinds of hearings it applies to. The type of hearing it does not apply to is a hearing that is a process by which a recommendation rather than a decision is made.

The area committee just makes a recommendation to the area director or to the director of legal aid or something else. But it might well be that if it is only a recommendation, not a decision, it is not subject to the act.

Mr. Rotenberg: If it is a decision, it will not be. The reason I am asking this is that I am going on to the next stage.

Again, I have discovered a practice where you get a situation where a client has had a certificate refused or cancelled; the reasons are given for it. Under the Statutory Powers Procedure Act, as I read it--and I cannot quote the statute exactly--it says that where allegations or charges are made against a person, the body must reveal all the information to that person.

In other words, if an area director cancels a certificate because he says you have too much money, because you have not discussed things properly with your lawyer or because you have not done this or you have not done that, it is my understanding that under the Statutory Powers Procedure Act at the hearing before the area committee the area director must reveal why he made those charges.

The reason I mention this, with respect, is that I found in a particular case I am working on that the area director or staff made certain charges. When we came to the hearing of the area committee, the area director said, "I have certain information that is confidential to me, and I am not going to reveal it." It is my opinion in this particular case that the information he had on which he was basing decisions could very well be inaccurate.

Does an area director in those circumstances really have the right, having gone out and made some investigation, to have information about a member of the public kept confidential from that member?

4:20 p.m.

Mr. Dick: Again, if I might just respond to that, the act requires the giving of reasons for the decision.

Mr. Rotenberg: Right.

Mr. Dick: There may be evidence that is partly the basis for a decision and other evidence that may be a basis for the same part of the decision. For instance, if it was a matter of evidence or some things that were peripheral to the issue, I do not think those would be a necessary part of the reasons if the reasons in themselves justified the decision that was made.

It gets down again to those individual fact situations. It is one thing to say that the area director said, "I will not give any reasons for my judgement or my refusal." It is another thing for the area director to say, "I cannot give you all the bases and all the evidence upon which I did it, but these are my reasons and this is why I did it."

Mr. Rotenberg: With respect, my point is that as I read the Statutory Powers Procedure Act and the Charter of Rights or whatever, and I am not a lawyer, to a person who has been charged they have said in effect, "You cannot have a statement of these reasons." In order to properly appear before the area committee, the area a director must reveal the reasons. I would think so, because otherwise what you have is the area director having some information which may be hearsay, situations where he says a client has not co-operated with his lawyer or has not done the

proper thing, or if the client has money which he has not revealed. Without putting all that information on the table, how can a member of the public defend himself against the cancellation of a certificate if he does not know the reason why it has been cancelled and the information behind it?

Mr. Dick: I would answer that again by saying that I think every counsel who acts in every case eventually comes to a point, certainly if you are acting for the crown, where you have information which you cannot adduce evidence towards and therefore, if the action does go forward, there will be evidence and because of confidentiality imposed upon you or for some other reasons, you will not be able to adduce that evidence.

It may be that the case will go ahead and may fall, rise or whatever on the basis of the evidence that is put in. The area director might--as I say, it happens in lawyers' offices quite regularly--have information which because of the solicitor-client privilege relating to another client or because of your inability as a solicitor or counsel to believe the truth of that evidence sufficiently to put it forward--there are all sorts of reasons why you may not want to--

Mr. Rotenberg: With respect, when you come before an area committee, there is no evidence as such; there is no cross-examination of the area director. The area director sends in his summary and he disappears, and the poor fellow is out there trying to tilt at windmills because he cannot cross-examine the area director.

Mr. Dick: Then I am back to my other point, Mr. Rotenberg. If it is a matter of the reasons and if the Statutory Powers Procedure Act applies, he is obligated to give reasons. As I say, that does not affect the evidence then; it just affects his reasons, and he does have to give those and those have to be disclosed to the--

Mr. Rotenberg: Does he not have to give the background for his reasons?

Mr. Dick: No. Now we are talking about the evidence again and what he can put in and what he cannot put in. All I am saying is that in many cases lawyers have a problem because that is a decision they have to make.

Mr. Rotenberg: We are not talking about a lawyer for a client. We are talking about a public servant who is an area director. If I am an advocate for legal aid and the area director goes out and does some kind of report on me and gets certain matters about me, it is like a credit rating in a way. There are similarities, and because of some things he has amassed, he then puts in his reasons why he is refusing my certificate. Do I have the right to see all the reports he has on me at that area committee hearing? That is what I am asking.

Mr. Ground: You have a right to know the reasons why your certificate was turned down. Do you know of instances where area directors have not given the committee the reasons for turning down a certificate?

Mr. Rotenberg: No, but I know of an instance where the area director has not revealed how he got the information for this reasons.

Mr. Guthrie: That is something quite different.

Mr. Rotenberg: I know. If I go to apply for a credit card and I am turned down, I am entitled to see the credit report on me. That is the law. If I go to and apply for a legal aid certificate and I am turned down, I am entitled to see the investigation on me as well, am I not?

What I am saying is, does the legal aid director have the right to go out and get confidential information on an applicant on which he bases decisions, on which he gives his reasons for turning down the application but not the reasons for the reasons, and to keep the reasons for the reasons secret? That is a basic philosophical point.

Interjection.

Mr. Rotenberg: Those are the financial reasons, but he may do other investigating. As I say, I have a particular case--Mr. Guthrie, I will talk to you about it later--where the area director refused to reveal the information on a particular applicant but he gave reasons why the individual was turned down.

Mr. Ground: He gave reasons?

Mr. Rotenberg: He gave a reason and he would not elaborate on the reasons because it is confidential information. However, I will not pursue that point any further.

Mr. Epp: I am interested in this, David. How general was the reason? Just because he did not meet the conditions or did he give because--

Mr. Rotenberg: No. It was a family law case. As I said, he was refused a certificate because he refused to negotiate a reasonable settlement. When the applicant asked, "In what way do you say I refused to negotiate a reasonable settlement?" He was told, "We do not have to tell you that" and that ended the matter.

I will proceed on other matters.

Mr. Epp: (Inaudible) the reason he was proceeding--

Mr. Rotenberg: He was proceeding in a family law matter.

Mr. Epp: He could have resolved the problem and he did not resolve the problem because he did not feel he was going to get a good enough deal and now he is going to legal aid to claim something. Is that right?

Mr. Rotenberg: The legal aid people say he could have made a settlement and he did not. His own lawyer said that was a lot of nonsense. Yet the effect of what the the legal aid director said was that the certificate was cancelled because he refused to

make a reasonable settlement. He asked, "On what basis do you make the decision that I did not make a reasonable settlement?" and he was told that was the end of the conversation.

Mr. Epp: His own lawyer had already--

Mr. Rotenberg: No, no. His own lawyer said he was reasonable. The legal aid area director or the staff said this was being unreasonable and therefore cancelled the certificate. He was asked, "On what basis do you say I have been unreasonable?" and he was told that was information he was not allowed to have.

Mr. Conway: He might want to talk to the Attorney General.

Mr. Rotenberg: (Inaudible) Now when a lawyer decides he no longer wants to act in a case and the lawyer has the certificate and says to the client, "I am sorry, I cannot act for you any more," and the client says, "Okay, I'll go to lawyer B because lawyer A does not want to act for me any more," does the area director have the right to approve lawyer B or can the person in effect take his certificate to any lawyer he wants to?

Mrs. Legge: He can take it to any lawyer he pleases.

Mr. Rotenberg: I see. Again, with respect, that has not always been the practice.

Mrs. Legge: I do not know.

Mr. Ground: I just wonder, where do you find these cases?

Mr. Rotenberg: That is because I am a member of the Legislature and some people come and ask me for advice.

Mr. Dick: I think that is the important part, because they tell you and so often we get suggestions, but we do not know the--

Mr. Rotenberg: Mr. Dick, I do not want to really go into all the details on a case in public unless somebody wants to, but--

Interjections.

Mr. Rotenberg: No, but I wanted to get these things. I am quite prepared--

Mr. Guthrie: If you would perhaps write to us--

Mr. Rotenberg: I am going to, Mr. Guthrie. I have been totally frustrated by the legal aid system in trying to get to the bottom--I want to spend a little time with you if I may, sir, but I want to get on the record some of the practices which I have found--not a decision by (inaudible) which I have found happening out there.

Mr. Epp: You have asked for legal aid for yourself?

Mr. Rotenberg: No, not for me. This is in a family matter.

Mr. Conway: We will pass the hat--

Mr. Rotenberg: Fine.

Where two parties to an action are both involved in legal aid in a dicey philosophical problem, is it the function of the area director to treat those two people as two totally separate people and give one a certificate if they qualify and give another a certificate if they qualify, or is it the function of the area director or his staff to try to mediate between the two parties and try to impose himself as a judge?

Mr. Guthrie: To give certificates. It is not his job to mediate.

Mr. Rotenberg: Then would it be proper where a lawyer from one side in a family law case writes the area director for authorization to go to discoveries and the area director then writes to the lawyer for the second party and says, "I think you should just withdraw your application and take some other tack"? In other words, revealing the tactics of one lawyer to the other lawyer, both from legal aid?

Mr. Guthrie: It is the same comment I made to Mr. Cassidy. I think that is improper practice.

Mr. Rotenberg: I have been to several area committee hearings. We talked this morning, Mrs. Legge, about your discipline committee in the society being an arm's length away from the lawyer who was being charged and so on. I accept what you say, because I have had some experience there too and I am pleased with the present situation on discipline, the little bit I had to do with it. But when you get into an area committee, I really question whether the area committee is at arm's length from the area director and his staff. Should they not be at arm's length and should not the area director as the person who made a decision, and the applicant who is appealing it, both be equal parties before the area committee?

Mr. Guthrie: In what way?

Mr. Rotenberg: I will tell you one way.

4:30 p.m.

Mr. Conway: Could you repeat that? I am really interested in this.

Mr. Rotenberg: You have an area director who has made a decision to refuse a certificate. You have an applicant who is appealing it. Those two people come before the area committee. Should they not come before them as before a judge, as equal parties before this hearing?

Mr. Epp: In what way are they not equal?

Mr. Rotenberg: Where are they not equal? First, the area director sends to the committee his version of a summary of the events and the reasons why he cancelled it. That is taken by the area committee as their starting point--not the area director walking in and giving evidence to be cross-examined, but the area director sending to the area committee a one- to three-page summary of the events that led up to this application and the events that led up to the cancellation or refusal of the certificate.

You walk into a hearing. The area director is not there. You have the committee members and his piece of paper on one side of it, as a given, and the applicant, on the other side, having to try to refute it. To me, that does not seem to be a proper practice.

Mr. Guthrie: What do you suggest?

Mr. Rotenberg: I would suggest that the area director comes in and gives his evidence as evidence, whether it is under oath or not, and that the applicant be allowed to question him and vice versa.

Mr. Guthrie: So you put an adversarial system at that level.

Mr. Rotenberg: Should it not be an adversarial system at that level? The impression is given that the area committee is taking the area director's record as gospel, and it is up to the applicant to refute it rather than the area director to make his case.

Something that bothers me even more is that the area committee from time to time will sit down in advance of the hearing with a member of the staff of the area director for a briefing session, in which case, whether it is all done totally above board or not, the impression is given that there is some evidence, or some fact, or some ideas given to the area committee when the applicant is not before them. It is bad enough that they get a summary in writing, which of course is available to the applicant, but there is a briefing session from time to time with the area committee, by the area director or a member of his staff. Do you think that is a proper procedure?

Mr. Guthrie: I have grave doubts about that, if it does exist.

Mr. Rotenberg: Members of area committees have confirmed to me that they have had it happen.

Mr. Dick: It is difficult sometimes to deal with them hypothetically. I can well visualize a situation where an area committee meets; they are all volunteers, they come in, they do not know the background and somebody has to give them an explanation. If you are going to treat it as a tribunal, you have one group which will do the briefing of the committee to give them an idea of the agenda, the types of cases and whatever, and then you--

Mr. Conway: You have been to our meetings.

Mr. Rotenberg: With respect, should not that briefing be in the presence of the applicant, though?

Mr. Dick: It depends on the nature of the proceeding. If we are going to turn the application for a certificate for legal aid into this kind of system, the administrative expense we (inaudible) before it, considering we have 47 area committees--if they move to this, you are going to have a whole new area of process opening up just for an appeal on the certificate rather than what they have attempted to do in providing something where this group of volunteers, who give their time to sit on these committees, can deal with them.

I have no objection with what you say. It is just that given the hypothetical situation, it sounds as if somebody is being denied counsel for--

Mr. Rotenberg: They are not being denied counsel. No. A person walks into a room where--some of you are practising lawyers; how would you like to walk into a court room where the other lawyer sat down and had a cosy little chat with the judge before you got there?

Mr. Dick: For centuries the crown attorney was alone with the grand jury in proceeding and reviewing all the indictments before anything happened to that, and the accused was not present.

Mr. Rotenberg: Is that a good system?

Mr. Dick: It was the whole basis for one of the finest criminal justice systems in the world. It lasted for about 400 years and changed because we had complaints because we were not able to get jurors to sit on the jury sometimes.

Mr. Rotenberg: The other thing is, should there be a proper record taken of a hearing before an area committee, because these are subject to appeal and Should that record be taken by an independent person or by a staff member of the area director?

Mr. Guthrie: It seems to me you are proliferating the costs again, Mr. Rotenberg.

Mr. Rotenberg: The point I am trying to make, having sat on a couple of area committee hearings, is that one gets the impression--and I am not the type of person who tries to machine gun the lawyers and the law society and the system, as you know--that the dice are kind of loaded against the applicant, because there is a too-cosy relationship between the area director, or the person who sits there, the secretary of the area committee who is a member of his staff, the members of the area committee, who are selected and will sit there, and who sort of do (inaudible) things before the applicant gets there.

We talked this morning, Mrs. Legge, about the arm's-length situation and the fairness of your discipline committee hearings

and the fairness to all parties. I understand what you are saying about costs, but I have a lot of reservations about the fairness and the justness, and even the appearance of fairness, of these kinds of area committee hearings where the area committee seems to be over on that side with the staff and with the other adversary and the poor applicant is on a different side of the situation. That may not be at all area committee hearings, but that is the way the system works.

I do not know if you will have any comment on that, and I understand your problem of proliferating costs. I will give you an example. You may be familiar with something called the Social Assistance Review Board, which has some offices downstairs in the Macdonald Block. Those people are somewhat divorced from the Ministry of Community and Social Services for whom appeals are made from decisions of staff for welfare and so on. To make an appeal to the Social Assistance Review Board there is one person who sits there; he may not be a lawyer. There is a little bit of a staff. The staff of the appeal process is totally separate from the staff of those who made the decision of whether or not to give that person a welfare payment or a social assistance payment.

In this situation, the appeal process and the staff of the appeal process are all part of the people who made the decision which is being appealed in the first place. Philosophically, that bothers me. I am wondering--forgetting the cost for a moment--philosophically, does that bother you?

Mr. Dick: Take the next step. Would the person aggrieved in that fashion appeal to the director of legal aid?

Mr. Rotenberg: He cannot.

Mr. Dick: Why not?

Mr. Rotenberg: Because.

Mr. Dick: Is there any appeal from that?

Mr. Rotenberg: No. An appeal lodged with the area committee from the refusal of an area director's certificate or from cancellation, a further appeal lies to the director at the instance of the area director from a decision of the area committee, according to this subsection.

In other words, if the area director turns me down and the area committee allows it, the area director can then appeal to the provincial director. But if the area director turns me down and the area committee turns me down, I cannot go to the provincial director. That is the way the law is written now. That is another point. I am glad you raised it. Do you think that is a fair situation?

Mr. Dick: I think it would be very nice in all those cases, and without knowing anything about the facts you describe, if we can do it, I distinguish the Social Assistance Review Board because it, like the Ontario Municipal Board and other tribunals that have a quasi-judicial aspect, has been and always has sat

separately. But, of course, they sit as one board. Again, what is devised in this I do not defend; I have not even worked with it for years.

But thinking of the idea of the Ontario legal aid plan, a lot was discussed earlier about the cost of administration versus the fees paid to the clinics and fees paid to the lawyers. You have 47 area committees and you try to accomplish the type of thing that you philosophically, quite properly, feel should be done. You would be developing a three-tier appeal system for 47 area committees dealing with 200,000 processes, so to speak. The difficulty is just that for the process involved, is it advised to do so. I do not question that philosophically and perhaps it is.

I just point out that in the plan that is devised and has been operating, the real effort was to try to provide as much leeway as possible within the limits--

Mr. Rotenberg: Maybe I might ask the committee to make this recommendation. Sure, in probably 90 per cent of the cases there is no problem and in 90 per cent of the appeals maybe the hearing is a reasonable thing. But there are five or 10 per cent of the cases out there where a person, because of the system, does not get a fair hearing, or even a person feels he does not get a fair hearing because the proper legal protection is not there and the person is refused a certificate for what he considers to be an important matter and he goes to an area committee, that might be a very important matter to that person.

I think it is incumbent upon us, as legislators, and you as the administrators of the legal aid plan, to make sure that process is, as you described the law society process this morning, reasonably arm's length and that the public is protected from any abuse or any possible abuse by the system. Maybe we have given you some ideas here which perhaps you have not been aware of or maybe they are not totally accurate in all cases--they are probably accurate in a few cases. But really my question--in the light of some of the experiences I have had in some of these things, and there are reasons for them all--is, do you think that process of appeal on area committee and so on should be reviewed with the idea of getting a fairer process without getting to the point where you run up a whole bunch of costs which may not be worth it?

Mr. Epp: Why would they have originally extended the right to appeal to the area director? The right to appeal to the provincial director cannot extend to the local committee.

Interjection: No idea.

Mr. Epp: That is where the unfairness seems to be. Why give it to one and not the other? We do not give it to the area director then.

4:40 p.m.

Mrs. Legge: Is that what you are saying, Mr. Rotenberg?

Mr. Rotenberg: That is only one minor part of it. The

applicant has had one appeal to the area committee and if he loses that the area committee people say he has had two bites of the apple, that is enough. The area director makes a decision and he is overruled. They say, "He should have an appeal somewhere else." I think that is an unfair situation. That may have been the philosophy.

Interjection: I think it is too.

Mr. Rotenberg: Some of the things I will say here and some of the things I may give you further, but I do not want to put someone's case out in public. Do you feel that there is a need at least to review the system of area committees and how they operate? As Mr. Dick has said, they do not operate in the adversarial system, they operate in what appears to be too cosy a system between the area committee and the area director.

Mrs. Legge: How many appeals, Mr. Guthrie? Could you tell the committee that?

Mr. Guthrie: I have no idea. I want to ask Mr. Conway a question. How does it work in Renfrew? There is the man who can tell us.

Mr. Conway: I would like to come to that if I get the opportunity.

Mr. Rotenberg: Those are all the questions I have, Mr. Chairman, but the last question has been sort of left up in the air for the moment, which is fine if the delegation wants to leave it up in the air for the moment.

Mr. Chairman: Thank you. Mr. Conway is the last questioner.

Mr. Conway: Mr. Guthrie has given me the chance to add a comment here and I would like the opportunity, because obviously Mr. Rotenberg has some real problem. By the sound of what you say, David, I have to think you have some particular difficulties with your area director and/or your area committee.

In answer to Mr. Guthrie's point, in a small community like Pembroke--and I suspect Guelph and Woodstock--it is impossible to avoid a certain cronyism, because everybody knows everybody else, certainly all the lawyers and those of us who serve in a nonlegal capacity in the courts administration and correctional people. It is a very small world. That describes precisely what our meetings are like. We are having one at 12:15 on Monday at Crescent Gardens Restaurant. We have lunch, you are welcome to it.

Mr. Guthrie: How does it work?

Mr. Conway: Pretty well. It works very much that way. We are eligible. I think we would be liable for a complaint that it is a little palsy perhaps. I do not know how you could make it much less so in reasonable, practical terms because everybody knows everybody else and anybody that you would substitute, within reason, would be known to everybody around the table. The area

director is exactly as you described I think, Mr. Dick. We all do depend on him for the kind of administrative advice that he provides. I think in our case--I am sure that there are people who do not feel this way--generally speaking the area committee errs on the side of caution in granting a certificate as opposed to not granting it. I think the area director does as well.

Mr. Guthrie: Would it be improved by the adversarial system?

Mr. Conway: No, I am not saying that it could not be improved. Coming back to my concern about your representativeness, you could make our panel more representative. There is no question about that. If it became more adversarial, I do not think I would, for example, want to serve on it. It would not be politically useful.

Mrs. Legge: Mr. Conway, may I ask you a question? You do not see that there would be any improvement in doing away with the area committees. Do you feel they should stay the way they are?

Mr. Conway: I am open to suggestions. I am always a believer that you can make the system better than it is, but I do not see an improvement along the lines of the adversarial model suggested by Mr. Rotenberg. I think in our case that would be counter-productive. I think the reality of small-town Ontario is the situation that Rendall Dick described and there is no way around that. You cannot make our committee more representative. You might wonder should a member of the Legislature be there as one of the lay people. That is a good question. Maybe not.

Mr. Guthrie: Is there fair play?

Mr. Conway: Is there fair play? Quite frankly, if you are a member for any length of time in a smaller community such as Renfrew county, Oxford, Wellington, you get to know an awful lot of these people, people out of your own case files, so you come to it with a knowledge of some of the background. That may not be the way it should be, so you might reduce or eliminate that by going to someone who is not likely to be in the social service system or in the correctional system. The most useful member of our committee is the correctional services officer. In my perspective, he is just great. You might argue that he has the problem the politician of some years' experience has in that he knows most of these people as well.

I think the point is that the adversarial model would be difficult if not counter-productive. I think it is counter-productive.

Mr. Ground: I think what you say is probably true, and I do not see getting into great, complex adversarial procedures at the level of the review by the area committee of the refusal of a certificate, but I do think that one useful suggestion that has come up is that perhaps the act should be amended to give both the applicant and the area director an appeal to the director of legal aid.

Mr. Conway: That was news to me. I thought that both had an avenue of appeal, but I am just saying that--

Mr. Rotenberg: In some cases they do, and in certain cases they do not.

Mr. Conway: I know in our case it is almost always a debate over the financial circumstances, and as far as I know, there is a document that is usually prepared by the Ministry of Community and Social Services or someone like that, and that is the issue generally. It is discussed openly, and we have had some heated arguments about that sort of thing. I think these various committees are as good as the people on them. I think we could make them more representative in the sense that I, for example, because of the sittings of the Legislature now miss more and more of our Monday meetings, and that means that one so-called nonlegal spot--

Mr. Guthrie: Should they be bigger?

Mr. Conway: I do not know if they should necessarily be bigger. I think ours is a middle-of-the-road one with seven or eight people on it, and I think that is probably big enough for a county of our size.

Mr. Guthrie: Do you find that the local bar being on it adds to it or detracts from it?

Mr. Conway: I find that the local bar that we have is excellent, and I would go further. Some of my right-wing friends on the local bar are surprisingly out of character when they are on that committee. They do really make an honest effort. They perform in a way that is more generous. I sit with these people on other occasions at other dinner tables during the week, and I can share with you a private prejudice. When I started out on the committee I was sceptical about whether or not some of these people ought to be on the panel, and actually my experience with many of those people on the panel has been very good and that they have been--

Mr. Breaugh: Are they over 40?

Mr. Conway: They are all over 40.

Mr. Guthrie: And are they WASPs?

Mr. Conway: They are all WASPs and they are all over 40 and they are all men.

Mrs. Legge: You know, Mr. Conway, I have a revelation for you. I have actually known some WASPs who have a social conscience.

Mr. Conway: I would not ever want to--

Mrs. Legge: You may find that surprising.

Mr. Conway: I do not find it at all surprising. I want

you to be clear in your mind, Mrs. Legge, and I mean this in all seriousness and with great directness, I did not suggest at all that so-called WASPs were without social conscience, far from it. My point, and it has to be understood, was dealing with the representativeness of the board of the law society in respect of the Ontario we have in 1983. That is the point I was making.

Mrs. Legge: Mr. Conway, I will undertake to send you a list of our benchers with their religious and racial backgrounds, if they will tell us.

Interjection.

Mrs. Legge: I know, but Mr. Conway seems to think this is important.

Mr. Conway: I reiterate the point I was making this morning, since it obviously made an impression on you, Mrs. Legge. I simply reiterated a concern that had been conveyed to me and was clearly an issue in your most recent elections, that there is in the province, among certain quarters, a deeply held view that the benchers do not fairly represent the Ontario of 1983.

Mr. Ground: It may be a view similarly held of the members of the Ontario Legislature.

Mr. Conway: Oh, it is documented, it is absolutely documented.

Mr. Ground: But we still happen to have one person, one vote.

Mr. Conway: I can only simply reiterate my earlier point about the concern that was developing, and I think it would be a wise and prudent thing for you to do, Mr. Ground, since I find you and Mrs. Legge more defensive than your fellow panel members on this point, to be a little more responsive to that than you appear to be, however unfair that charge might ring in your ears.

Mr. Ground: I want to know what you would like to do about it, that is what I am interested in.

Mr. Conway: I wanted to raise two quick points about the legal aid matter. Section 22--and I know Mr. Cassidy dealt with some of this in my absence, so I will not keep the member for Elgin any longer than I have to because I know he has urgent and pressing business elsewhere--the 75 per cent business, listening to people I know, again at the local level, I do not understand that rule. In some ways it is a bit reminiscent of the whole PSI, the health insurance, where they would accept 90 per cent as full payment. It seems to me from what I hear locally that 75 per cent maximum together with, to quote my lawyer friends, the endless red tape, is a real disincentive for a lot of the more senior lawyers in our area to participate in the plan. I would like to get a better idea of how that 75 per cent business developed, particularly in view of the fact that there is not a back-up provision where all lawyers in Ontario make a direct contribution to the legal aid plan.

4:50 p.m.

Mr. Dick: If I may, the concept was that was the contribution of those lawyers who would be participating in the plan. Hopefully, all members of the bar in the province would be participating in the plan. As it has turned out, it would appear that roughly one third of the lawyers in Ontario are participating in the plan but it was seen as something which would be the contribution of the lawyer for doing it because up until that time all the lawyers who had been doing legal aid, you will recall, had received nothing for it.

Quite frankly, there was a feeling when this plan came in in the rest of the province that it was only Metropolitan Toronto that caused the necessity for legal aid. As the committee toured the province, many people were upset, saying: "We do not need a legal aid plan up here. Nobody has ever gone without counsel," etc. But it was thought necessary to provide equality throughout the province that it be done. For that reason, since lawyers had given legal aid free up until then, it was felt that if lawyers were now going to get paid for it, some lawyers would still be doing it free at their own desire. Therefore, lawyers who got paid for it should get only 75 per cent of the tariff and that would be a contribution by the profession.

Mrs. Legge: I would like to add to that. When the legal aid plan first came in, many lawyers who had been doing legal aid thought it was absolutely marvellous that they were getting 75 per cent because we were now getting paid 75 per cent for doing what we had been doing for years for nothing. This is how it arose, Mr. Conway.

It has got out of whack now. In those years it was not perceived, when the government brought this plan in, that anybody would be living on legal aid exclusively or doing nothing but legal aid. There is that portion of the bar who now does nothing but legal aid. That is where the difficulty has arisen.

Mr. Guthrie: Mr. Conway, I want to get back to your question. You were talking about the senior members of the bar, not the junior bar.

Mr. Conway: My impression on a local regional basis is that our established lawyers rarely, if they can avoid it, get involved with legal aid for a couple of reasons. They say the tariff of 75 per cent represents charity of the worst kind, together with all that red tape that just ties them up, the overhead and all the rest that they have to carry while they are fighting with--

Mr. Guthrie: I concur in your comments about the red tape as far as the billings are concerned. Hopefully that has been addressed and will be corrected, but I am not so sure the 75 per cent is an issue.

Mr. Conway: I wanted to make one other point. I know Jim Chadwick reasonably well and in some of our conversations--and I

think it is fair to say a number of lawyer members of the Legislature or lawyers outside of the Legislature have come to a number of us in very serious and direct ways saying that our legal aid system is in deep, deep difficulty and something is going to have to be done about it.

I do not know whether you had the opportunity but I would recommend it to you if you have not read it--I think in the eight years I have been here there have been few speeches that were as good as the Attorney General's speech here last December in his estimates dealing with, among other things, legal aid.

I sometimes do not have as high a regard as perhaps Mr. Dick, who in his earlier incarnation perhaps had some additional reasons to be more deferential to the speaking capacities of the Attorney General, but this speech of the Attorney General's is excellent. When he dealt with legal aid, he was really putting the cards on the table. I am just going to cite a couple of lines from his December 1, 1982, speech because it really made me wonder who he was talking to.

He said: "Responsibility for ensuring that legal aid services are efficiently and effectively provided is one of the most vital aspects of my office. I am saddened to say that only rarely have I found that point of view shared widely in this building or indeed in the community at large."

"Much of the opposition," he goes on to say later, "to legal aid is based on misconceptions about it, coupled with lack of appreciation as to the fundamental importance of legal aid in the preservation of the rule of law. Unfortunately, some of the criticism of legal aid is simply based upon naked self-interest. Some people, having achieved positions of power, take umbrage at the very thought of the legality of their actions being challenged."

Mr. Dick, we could let our imaginations run to think who inside the executive office or outside he was directing our attention to. He goes on about the province needing more clinics with better-paid workers. "It is almost trite to point out that a great many poor people have never been made aware of the rights they enjoy under our laws." That is an Attorney General crying out for a system that he sees is of central importance and a system that is under attack from within and without the power structure of the province. I really wondered. Did anybody read that speech?

Mr. Dick: I read it.

Mr. Conway: You did not write it?

Mr. Dick: I did not write it.

What the Attorney General said there is similar to what he said at the opening of the assizes on occasion in recent years and several other places. The reference to the power and the persons, etc., I do not think was the context of his associates. But I think he would be the first one to admit that what he said about his concerns and his feeling people did not fully understand it

was directed probably at all those in the Legislative Assembly who did not agree with it, or in the executive council or anywhere else. He did, and he does, I know, feel very strongly that the legal aid plan has probably been one of the singular things in a very distraught and militant society that has given us what we think is a very enviable record of civilian peace and tranquility, all things considered.

We have had our problems, heaven knows. Nevertheless, compared to other large metropolitan jurisdictions that have grown as fast as ours, we have had a marvellous record of peace and understanding. We have disturbances but nothing like what we might have had, we felt, if we did not have a system that provided a very sound base of legal assistance through legal aid, sound laws and, putting it bluntly, good government sort of thing.

Mr. Wishart--rather, Mr. McMurtry was and I believe still is very concerned as to the funding of that whole system. That is why he commented that way. He did intend it for all those who have time to read it and listen, whoever they were.

Mr. Conway: I was there to hear it. I was left with the very distinct impression, first, like a lot of lawyers I have talked to at home, the province was in dire straits--there is that lovely phrase--and that internal to the government there was an assault on it as some kind of welfare agency that was just throwing good money after bad. At any rate, there are some follow-up questions I would like to deal with but, noting the clock, I will leave them for another time.

Mr. Chairman: Thank you. That ending the questions, I would like to thank the treasurer and gentlemen for appearing before us and for your patience and assistance.

Before you leave, one quick thing to do before adjourning; you remember we wanted an opinion of the legislative counsel on the Babineau petition to our committee. The clerk is handing around a letter now from Mr. Stone, the legislative counsel. If you will look at that, you will note in the second unnumbered paragraph on page 1 he ends by stating that "such an inquiry unless referred by the assembly would be clearly outside the terms of reference of the standing committee on procedural affairs." Then he goes on to state that since the matter is before the courts, "an inquiry into the facts referred to by Mr. Babineau and expressions of opinion on them by a legislative committee could be seen as prejudicial to a fair consideration by the court."

Therefore, in the light of this opinion of the legislative counsel that we sought, what is the opinion of the committee?

Mr. Rotenberg: We will take no action on the matter.

Mr. Chairman: Is that carried?

Mr. Breaugh: Don't you think the guy ought to be informed?

Mr. Chairman: Yes, and the clerk--

Mr. Breaugh: I would say that Mr. Babineau simply be provided with a copy of this letter.

Mr. Rotenberg: I assume that would happen along with the--

Interjections.

Mr. Epp: Then he knows we have discussed it and asked for legal opinion on it. He knows where to go if he does want to pursue it.

Mr. Chairman: Fine. All right. That is carried. We are adjourned until nine o'clock tomorrow morning.

The committee adjourned at 5 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
CRIMINAL INJURIES COMPENSATION BOARD

FRIDAY, SEPTEMBER 16, 1983



STANDING COMMITTEE ON PARLIAMENTARY AFFAIRS

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McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Conway, S. G. (Renfrew North L) for Mr. Mancini

Clerk: Forsyth, S.

Assistant to Clerk: Stesky, J.

Staff: Eichmanis, J., Researcher

From the Ministry of the Attorney General:

Giuffre, V., Registrar, Criminal Injuries Compensation Board

Grossman, A., Chairman, Criminal Injuries Compensation Board

Hoole, P., Secretary to Chairman, Criminal Injuries Compensation Board

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Friday, September 16, 1983

The committee met at 9:14 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
CRIMINAL INJURIES COMPENSATION BOARD

Mr. Chairman: Gentlemen, we have a quorum in place. May we start?

To our visitors, may I point out our apologies? There was a meeting this morning which had nothing to do with this and, unfortunately, five members of this committee also happened to be at that meeting. So I apologize. That is why perhaps we are a little tardy.

Gentlemen, we have the Criminal Injuries Compensation Board. For the sake of Hansard, would you please identify yourselves?

Mr. Grossman: Mr. Chairman, I am Allan Grossman, chairman of the board. On my left is the chairman's secretary, Patricia Hoole, and on my right, Mr. Vince Giuffre, who is the registrar of the board. I should point out that he has been the registrar for just about a year or a year and a half, Vince?

Mr. Giuffre: A little over a year.

Mr. Grossman: Miss Hoole has been secretary to the chairman, I guess, for the last 12 or 13 years, and we depend a lot upon her memory sometimes.

Mr. Chairman: Do you have any written brief to give to us, or just an opening statement?

Mr. Grossman: I would hope the members would be happier if I just made an opening statement for about two or three minutes.

Mr. Chairman: Fine. Thank you. Carry on.

Mr. Grossman: Mr. Chairman, your time is limited and, rather than opening with an old review of our program, the details of which, I understand, have already been placed in your hands, and having regard for the likelihood that you would rather take advantage of the time available to deal with some particular aspect of our work which interests you, I would like to take a minute or two just to express my opinion that the greatest value--and it not just my opinion--of the Criminal Injuries Compensation Board may very well be other than the monetary compensation it awards.

Over the years, some thousands of people--applicants, witnesses, spectators, student classes and media--have seen the board in action. Many have expressed satisfaction with the board's

work as one of the more humane elements of the criminal justice system. They see our procedure as a system which allows applicants, in particular, to express themselves in an informal way in an informal setting, which permits them all the freedom necessary to unburden themselves of any repressed animosity against the formalities of the courtroom within which they were required--quite understandably and, in many instances, necessarily--to limit their views, sometimes passionately held views, about the circumstances which had brought them to court in a trial, either as a victim and/or witness. Before our board, they find themselves for the first time in a setting where the focus is on the victim rather than on the offender.

They may not always be as successful as they had hoped to be in respect of the quantum of the award, but by and large, they feel a sense of satisfaction at being able to unburden themselves of some of those feelings they wanted to bring out at the trial but which they were precluded from so doing because of the more rigid formalities of the court.

I am brought to mind of the opinion expressed by an eminent psychiatrist who attended a hearing before our board as a witness in a rape case. Some days after the hearing, he expressed himself as follows and, Mr. Chairman, I am paraphrasing: "I have been treating this young lady ever since the offence, for about two years, and I must tell you the board has accomplished more for my patient in the two hours or so of the hearing than I have been able to accomplish in all the months I have been treating her. She had, for all of that time, been harbouring a hostility against society, and particularly the criminal justice system, because of her feeling--and, in my view, quite justifiably--that the trial of the offender was conducted as though she had been put on trial rather than the offender.

"Her experience before your board enabled her to give her own version of what took place at the time she was attacked and on what took place at the trial, so that she came away from your hearing feeling that somebody was really listening and was sympathetic to the tragedy that had befallen her."

Mr. Chairman, may I ask the members to find some time in their busy schedules to perhaps come down and attend a hearing, since they are all public, and perhaps spend an hour there. They might hear one complete case because we usually have four in a day. I think they would get a better understanding of the board and perhaps be happier at the manner in which our mandate has been attended to and in which the taxpayers' money has been handled.

Our meetings are held four days a week, from Tuesday to Friday. There are meetings in Toronto, Ottawa, Windsor, London, Thunder Bay, Kenora, Sault Ste. Marie, Fort Frances and any other place where it turns out there are a sufficient number of cases to make it practical for the board to travel to hear the applicants.

Thank you very much.

Mr. Chairman: We thank you very much, Mr. Grossman.

Mr. Watson: Just for purpose of information, do you have a hearing on all cases, or do you settle some without the people appearing? What is the practice of the board in that regard?

9:20 a.m.

Mr. Grossman: The practice of our board, which I know is exclusively so in Canada--in regard to the United States, and probably across the world, I am not sure about that--is that we are the only jurisdiction that invites and entitles every applicant to a viva voce hearing. However, in the last couple of years, in order to bring down the costs of the operation, we will, with the permission of the applicant and the offender, if he can be found, hear a case on documentary evidence. Those cases are usually very simple cases, mostly applications from police where the evidence is quite clear, where it is a simple case and where, by and large, the injuries are minor.

Mr. Watson: Do the people actually appear or do you do that?

Mr. Grossman: In the cases generally, the viva voce hearings, the people appear.

Mr. Watson: I do not care about the accuracy on the last percentage, but what percentage do you actually have where people appear versus those where you just send it by mail?

Mr. Grossman: Last year we heard about 900 cases, and I think about 90 to 100 of them were on documentary evidence. But those people who have preferred to have a viva voce hearing not only were quite free to so, but we invited them to come.

Mr. Watson: When you invite them, do they get there at their own expense? What are the terms of people appearing before you?

Mr. Grossman: We pay all of the expenses involved in travelling to and from the hearing, and if there is any monetary loss due to a day off work or something of that nature, we also pay the witnesses.

Mr. Watson: Do you call the witnesses or do they suggest who is going to be called? How is that done?

Mr. Grossman: It is either way. As a matter of fact, in some cases where a witness will not come voluntarily, we will summon the witness for them.

Mr. Watson: One of the things we would like to know as a committee in terms of our general practice here is, is the legislation that you have in place adequate for what you are doing. Should it be changed? Do you have suggestions to the Legislature as to what you would like to have in terms of authority that you do not have--maybe "authority" is the wrong word--legislation that you do not now have or changes to your present regulations?

Mr. Grossman: We meet with the ministry at intervals and discuss with them problems that we believe have arisen because of the terms of the mandate. From time to time we suggest amendments for their consideration, and sometimes the amendments are made.

The last time an amendment was made was, I think, in 1975 or 1976; the act was generally amended in 1971. But we discuss it with them on a regular basis. Sometimes we find that there are other ways legally to resolve some of the problems and other ways in which an amendment to the legislation might create more problems than it resolves. But we do discuss it with them regularly.

Mr. Watson: What are the limits on your payments?

Mr. Grossman: The limit is \$15,000 on the lump sum payment. Where the board wishes to provide a periodic payment, usually a monthly payment, then the act provides that we are then permitted to pay half that amount as a lump sum--in other words, \$7,500 and up to \$500 per month.

There is an exception to the maximums where someone goes to the aid of a peace officer and is injured in a situation of that nature; or where there is some great feeling on the part of the board that someone went out of his way beyond the call of duty, even a policeman, then we can raise the maximum. So the maximums do not apply, and we can even in those instances compensate for what a person in civil action would be compensated for under the usual heads under common law--in other words, loss of amenities and that sort of thing.

Generally, it is \$15,000 or, in the instance of a monthly income, \$7,500 and up to \$500 a month.

Mr. J. M. Johnson: Mr. Grossman, I just have a couple of minor points. One is the discretion you have as chairman to have another hearing in the case of one member being appointed but not two. What is the reason for that?

Mr. Grossman: For the legislation? Or the reason for having--

Mr. J. M. Johnson: No, the legislation, I assume.

Mr. Grossman: The legislation, I presume, can provide for some emergencies that arise every year. In some instances we would have members assigned to a hearing who have to come in from out of town. For instance, we have a member who lives in New Liskeard. If he has been scheduled to appear in Ottawa for a hearing, if for some reason or other the airport is closed in and he cannot make it and there is no time to get another member, then one member can take the hearing.

Mr. J. M. Johnson: Yes, I understand that. But it is my understanding that if one member hears it, the individual has a right to appeal; but if two hear it, they do not have that right.

Mr. Grossman: That's right. Where there is one member, then in 15 days he can ask for another hearing before a two-member panel at least, and the member who heard the first case will not be one of the new members. Yes, he gets another hearing then. On the other hand, of course, everyone has an appeal to the divisional court on a matter of law.

Mr. J. M. Johnson: The second point is on the section dealing with awards, common law, assistance to police officers, where no additional award is provided where the person was assisting a relative that has been injured.

Mr. Grossman: I am really here interpreting what we feel was the reason for the legislation. We presume the Legislature had in mind that you are not doing any great public service if you are defending yourself, but you are going beyond what should be expected if you go to the aid of someone else.

Mr. J. M. Johnson: But if you had a cousin or someone whom you went to save, you would not receive any extra award because he is a relative.

Mr. Grossman: That's correct. It is presumed that every civilized human being goes to the aid of his cousin. This is what we presume, although I know there are some cousins who would beat a cousin.

Mr. J. M. Johnson: I will not comment any more.

Mr. Epp: Mr. Grossman, you commented just a few moments ago about the meetings. You sometimes sit four times a week and so forth and you travel about. Is it on a regular basis that you sit every week, four days a week?

Mr. Grossman: In Toronto. We have sufficient cases in Toronto and environs to fill a calendar. We wait until there is a sufficient number of cases accumulated to, say, hold a hearing in Ottawa to take up to three or four days on the basis of four hearings a day. If it appears that we are going to have to wait too long for that number, then we call them in to Toronto. But wherever possible we like to have them in a community outside Toronto where people are living.

This is for a number of reasons that are fairly obvious. It is easier for that person; it is good for the community to know the existence of the board and the work it is doing; and it is also more economical than sending the board members out there and bringing them back and bringing witnesses in and sending them back, because we pay for all that.

Mr. Epp: That was my next question. You do pay for their expenses if they come in and so forth.

Mr. Grossman: Oh, yes.

Mr. Epp: With respect to the settlements, there is a total of \$100,000 that you have for any one case, there is \$15,000 for any individual person or there can be a combination of \$7,500 and then \$500 a month. This \$500 a month can go on in perpetuity?

Mr. Grossman: Actually, it can go on until it reaches the way the act reads now, and we are concerned about the wording of that section. The way it is interpreted now is that we can pay that \$500 up until the total reaches \$100,000, or \$175,000 if we are talking about pain and suffering or the other situations. I suppose a young person could reach that in about 28 or 29 years at the maximum.

9:30 a.m.

Mr. Epp: Based on your experience, do you find those settlements are generous enough or do you feel the amount should be broadened?

Mr. Grossman: Are you talking about the maximums generally?

Mr. Epp: Yes, either for the individual or for the case.

Mr. Grossman: I thought the question would be asked because it is a--

Mr. Epp: I did not want to disappoint you.

Mr. Grossman: I hope I do not disappoint you.

Mr. Rotenberg: Do you think you should get more money from the Treasurer (Mr. Grossman)?

Mr. Grossman: I do not know how tough the Treasurer would be, but the Attorney General (Mr. McMurtry) is going to have to deal with it in that respect because he would be going to him for money.

You will appreciate that I have a great regard for the system of government under which we work and I was not too sure when this question would be asked whether it was a proper one for me to answer. It is a matter of policy, it is your policy, it is legislation. When I was a minister I did not like someone who was reporting to me to publicly criticize the policy of the government or what the Legislature has done.

We can live with whatever mandate you provide. Let me put it this way. We have discussed, among other things, the adequacy or inadequacy of the maximums as they exist.

Mr. Epp: Yes.

Mr. Grossman: Perhaps you might feel it not only more suitable, but more fruitful, if you discuss this with the Attorney General at some time.

Mr. Epp: Mr. Grossman, from your standpoint--not trying to get you in any corner or anything of that nature, but it is a kind of open question--might there be a little more latitude shown in the future by the Legislature with respect to the amounts?

Mr. Grossman: I would think that would be something they would consider, yes.

Mr. Epp: Where do you really differentiate between whether it is a lump sum or whether it is an ongoing kind of situation? As you know, in some cases you give the lump sum and in others you give a partial payment. In other cases, I suppose, you give just the monthly payments. Where do you make this distinction?

Mr. Grossman: The lump sum is generally for pain and suffering. There is no point in doling out a lump sum. If you (inaudible) for \$10,000 we think you should get \$10,000. There are rare instances where for particular reasons it appears inadvisable to pay some person who appears perhaps to be irresponsible or in other respects not capable of handling the money. We might in those instances take the liberty of paying it over a period of two or three years. Perhaps we have been advised by families, etc. that they think it is inadvisable.

We do not necessarily like that discretion because we are really telling somebody else how to spend his money, but we use that discretion very rarely.

The other, of course, the periodic, is usually to offset loss of income either for the victim himself or herself or the dependants who have lost the income of the victim.

Mr. Epp: How extensive is your investigation of that? For instance, you just alluded to the fact that you speak to the family and so forth. Where do you delve into and get your information from before you give compensation? What kind of investigations do you do?

Mr. Grossman: In the first instance, of course, after we receive an application, there is certain documentation required. The chief of investigation looks into it and acts on a system whereby, first, he tells the applicant the kind of documentation required such as up-to-date medical information, in addition to hospital records and documentation, which will justify his claim for loss of income.

We get a police occurrence report. The police occurrence report is looked at by the investigators, and unless it appears that the board in their view might be interested in some aspects of the case which might lead the board to consider the invocation of subsection 17(1) or (2)--that is, possible lack of co-operation with the police or the that actions of the victim himself in respect of the occurrence whereby the board may decide that he was either completely or partly responsible for his own misfortune--unless those things appear to be apparent in the investigator's report and the police report, there is no further investigation.

On the other hand, where it appears possible that there may be some aspects of the case which the board members who hear the case may wish to deal with, then the investigator goes out on a personal investigation. He discusses it with the police officers involved, he discusses it with the applicant perhaps and maybe he even talks with an alleged offender. Where it still appears that the board members hearing the case may wish to go into that, he then writes an investigation report dealing with those matters. We

then subpoena to the hearing the sources of his information, the police who were involved, etc. That investigation report is given to the applicant prior to the hearing because, in accordance with the Statutory Powers Procedure Act, if there is something dealing with the victim, the victim's character or behaviour, then he is entitled to know what the panel has before it. Essentially, that is how it is handled.

Mr. Epp: To what extent do the insurance policies of an individual--and I suppose in most cases you deal with people who do not have insurance--impact on your thinking?

Mr. Grossman: It depends on the circumstances. It may very well be that, for instance, if the victim has insurance which covers a good portion of his loss of income, we take that into consideration because we are so required to do by the act. We take into consideration what he will be receiving as a result of the occurrence.

Mr. Epp: Mr. Grossman, in the Sun of this week--I suppose it is very opportune from our standpoint--there was a story about this victim from the Yugoslavian airlines. I am not sure from the article whether he was a Canadian citizen or not.

Mr. Grossman: No.

Mr. Epp: I presume, based on this, that as long as the incident happens in Ontario, it is irrelevant whether the person is a citizen or not of this province and country.

Mr. Grossman: That is correct. I guess I can say we have discussed from time to time the matter of dealing only with those areas where we might have a reciprocal arrangement. I will immodestly take some credit for the number of American states which have now taken out their residency clause, because when they started this board some years ago I think there was only one which had no residency clause. I brought it up every year at the international meeting and I kept nagging away at it.

I do not know whether you have been provided with that, but I think some 38 or 40 of the American states do not have a residency clause, so that by and large our people will be covered in those jurisdictions. But that is not quite the whole story. Their coverage is nowhere near as generous as ours. I do not think any of them have a pain and suffering clause and, also, their benefits are much less, generally speaking. At least our people would have some coverage if they were down in the States.

Mr. Epp: Based on your travels and your experience, do all states have some form of criminal injuries compensation?

Mr. Grossman: Most do now.

Mr. Epp: Thirty-eight have dropped the residency clause.

Mr. Grossman: Most of them do. I think there are still probably eight, 10, or 12 states that, at the last information I

have, still have no such program. They will all have it eventually because the federal government in the United States has been pressing it ever since there was a President's commission which went into all of this.

Mr. Epp: I may have some later, Mr. Chairman, but for now thank you.

Mr. Cassidy: I have a number of questions for you, Mr. Grossman. It is a pleasure to see you back here in this place again.

Because I have been asking it of everybody else, perhaps you could say what is the per diem for members of the board and approximately how much do they serve, that is, how many days a year do they put in doing their tasks with the board?

9:40 a.m.

Mr. Grossman: The per diem is \$112 per day for the hearing, split up on the basis of \$56 for studying the briefs, because they have pretty heavy briefs to study, and \$56 for writing the decision. It is presumed that would probably work out to about \$112 a day for two days.

Mr. Cassidy: How many hearings a year would be attended by each member of the board?

Mr. Grossman: It depends. Generally, when we have an active lawyer on the board, he cannot attend many of them, and we have one member who has perhaps taken six a year. The others, who are not active lawyers, generally do five or six a month.

Mr. Giuffre: Approximately.

Mr. Grossman: Approximately five or six a month.

Mr. Cassidy: When you hold hearings, do you have several cases that take place during the course of each hearing day?

Mr. Grossman: We have generally four hearings a day.

Mr. Cassidy: Can you explain that?

Mr. Grossman: We have four cases a day. I am sorry, I should have said four cases a day. Those members you are referring to would hear four cases.

Mr. Cassidy: Would that mean four separate hearings?

Mr. Grossman: Four separate hearings on that day, yes.

Mr. Cassidy: Could you explain that a bit more? Does that mean they are paid for doing four hearings on the same day?

Mr. Grossman: Yes. They are paid for one day's hearing. It is \$112 for a hearing for one day, but there are four cases usually.

Mr. Cassidy: It is \$112 a day whether they hear one case or four?

Mr. Grossman: That is right.

Mr. Rotenberg: Twenty-eight dollars a hearing.

Mr. Cassidy: What is your salary as chairman of the board?

Mr. Grossman: I thought that was on the record. That is in the public accounts, is it not? I think the last salary was \$59,000 or \$60,000.

Mr. Cassidy: It is a deputy minister's salary then, is that correct, or the equivalent?

Mr. Grossman: I do not know what a deputy minister gets. I know the deputies used to get more than the ministers.

Mr. Cassidy: Then you continue to draw your pension as a cabinet minister. Is that right?

Mr. Grossman: If you want to go into the question of pensions, I was in the insurance business. A pension is something I contributed to. A pension is something which also, incidentally, you should keep in mind yourself. I do not know whether you are allowed to--do you participate in Canada pension?

Mr. Cassidy: In its wisdom, the government finally got around to saying yes.

Mr. Grossman: We never did; so we were not allowed to stack those either. I think, by and large, it is really a personal matter between myself, having made a contract with my employer. Whether you think I should be able to be employed and still get my pension, that is a matter of opinion.

Incidentally, I started my pension at age 65. An insurance company would love guys who started their pensions at 65 and paid for 20 years and made a contribution which I think was equivalent to Canada pension. Members usually do not treat themselves the way they should. Later on in years they say they should have. The new breed is probably smarter than that.

Mr. Cassidy: Mr. Grossman, on the question of limits, when was the limit of \$15,000 set? Was that set 10 or 11 years ago when the board was set up?

Mr. Grossman: I think it was 1971.

Mr. Cassidy: Since that time, therefore, there has been no change at all in the limits within which you work. Is that right?

Mr. Grossman: No. We got into that just prior to your question. I have no objection to repeating it.

Mr. Cassidy: Yes, I know that. Your average award in that 12-year period has gone up from \$1,900 to about \$2,300, an increase of 22 per cent. I am a bit curious about that because of the fact that where there is money awarded, for example, relating to people's loss of earning capacity, that suggests that basically in the board's judgement there has been very little change in people's earning capacity in the period between 1971 and the present.

Mr. Grossman: No, Mr. Cassidy, it is not in the board's judgement; it is in the judgement of the Legislature. They have imposed these maximums on us.

Mr. Cassidy: I realize we have imposed maximums, but since your average award is only 10 or 15 per cent of the maximum that you can award in each case, there is a certain amount of leeway available to the board. My question is, given that this leeway exists, is it a bit unusual that although the cost of living has gone up by 150 per cent since 1971, your average award has gone up by only 22 per cent?

Mr. Grossman: It would depend upon whether you are referring to pain and suffering or loss of income. Presumably you are referring to loss of income.

Mr. Cassidy: I am referring to both. You and I know that pain and suffering is a very difficult thing to evaluate. You cannot compensate in money for what happens to some of the people who come before your board, but we do not know any other way and, therefore, we wind up doing it in money. Is there any evidence that the nature of the cases coming before the board has, in some way, diminished in severity?

Mr. Grossman: No. Actually, what is happening is that where there is a loss of income, we will pay in those instances the complete loss of income to the maximum of \$500 per month. On the other hand, there are cases where the \$500 does not compensate them for their loss of income. There is nothing we could do about that because of the maximum.

It is not a matter of our judgement. Some of these people will be covered by workers' compensation, for example, but in some instances that still does not make up for the complete loss of income or 75 per cent of the income. We will then pay the difference, even though the difference may not exceed \$500. In other words, if a person has lost \$1,000 a month, we will give him \$500 a month.

Mr. Cassidy: But the evidence is that in most of the cases you are not giving anywhere close to that.

Mr. Grossman: You have a lot of minor cases. I think if we show you a table here, you would be able to establish one of the reasons for that. For instance, there are many cases we get where the awards are only \$500, \$600, \$700 or \$1,000 for the very minor cases. That brings down the average. For example, most of the policemen's awards, I would think, would not reach \$1,000. Some of them get \$200 or \$300.

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Mr. Cassidy: Mr. Grossman, what I am suggesting is this: If you look at the average award and if you look at what has happened to the cost of living, the average award in dollars terms today is worth half of what it was in 1971. You are saying, at the same time, that basically the nature of the cases you are getting is the same as it was in 1971. That means, therefore, that your board is judging that pain and suffering is worth only half of what it was in 1971.

Mr. Grossman: You are talking about pain and suffering?

Mr. Cassidy: Yes, I am.

Mr. Grossman: We are not saying it is worth only that much.

Mr. Cassidy: I am sorry, that is what you are saying in dollars. The only way you have of measuring--and I admit it is a bad way--is in dollars. That is what you are asked to do. You are far too discreet in terms of your feelings about the overall awards. It seems to me that if we are going to do this at all and have any compensation for people who are victims of crime, to do it on the cheap and not to have the board responsible raise a peep about it, there is something really wrong.

I think the members of your board and you, sir, are not doing your job in terms of doing what you can to bring this matter to the attention of the Legislature and of the public.

Mr. Grossman: I did not say I did not bring it to anyone's attention. If you had been here earlier, you would have heard me say that I discuss many aspects of our legislation with the ministry at regular intervals, one aspect of which is our present maximums.

Mr. Cassidy: But when you discuss it with the ministry, whatever reaction you get from the ministry, you are certainly not generating public concern out there in terms of the inadequacy of the type of awards that you feel you can give.

Mr. Grossman: How would you suggest we do that?

Mr. Cassidy: I would suggest, among other things, that you as the chairman went around and said--I will give you a few cases--"Here is a case and here is what we gave because we have decided that if \$15,000 is our maximum award, we cannot give it in every case." Here is an 18-year-old student slashed nine times on the back. The offender was sentenced to four years. The victim had staples shot in his arm and shoulders. He was tortured and choked with a wire hanger. Pain and suffering was assessed at \$3,500.

Mr. Grossman: There must have been a reason why it was \$3,500, because we could have given him \$15,000. There must be a reason we gave him \$3,500.

Mr. Cassidy: I do not know the reason; that is up to you. It is a discretionary type of award.

Mr. Grossman: Yes, but I would have to have the file before me, with great respect.

9:50 a.m.

Mr. Cassidy: Here is another case. A punch-press operator was assaulted by her boyfriend and lost the sight of her right eye in the incident. You judged that the pain and suffering in that case was \$5,000 for losing an eye.

I do not know where you get these values. They may come from the meat chart of the Workers' Compensation Board, Mr. Grossman, but it seems to me that is a pretty paltry amount.

If we are going to say to victims of crime, "Here is a board; you at least can get recognition for the fact that something happened to you, even though we cannot put right what happened to you," to wind up with awards that can only be described as chintzy is not good enough in this province.

In fact, you, sir, and your members of your board should be going around to the government, saying, "If you don't want us, why don't you tell us rather than giving us the hint by never increasing the limits and never giving us adequate authority to do what we can?"

Here is a 14-year-old girl who was attacked by three youths with baseball bats while she was sitting in a car. She suffered a deep laceration to the globe of the left eye, some permanent loss of sight occurred and there was a possibility of future visual difficulties. We do not know whether she will lose the eye: pain and suffering, \$1,500. In this case the offender got a suspended sentence.

In cases where offenders go to jail, we as a society wind up spending \$20,000 or \$30,000 per annum on having those individuals in jail for a period of three or four years. So we may spend hundreds of thousands of dollars on the offender, and you come up with peanuts as far as the individual who has actually been involved is concerned.

Here is a 64-year-old secretary who tried to stop a juvenile from stealing her purse. She had a fracture, dislocated her shoulder and was left with a permanent disability. The offender was found delinquent. The pain and suffering was judged to be \$2,000. You, sir, know people of that age. You know what happens to an old person when they have had that type of experience. In many cases it can be so terrifying that they will never go out on their own again. It kind of hems in their horizons and has a permanent effect on their lives, and that is only worth \$2,000.

I just suggest that to come up with small awards and not to be prepared to fight back with whatever means you have--and I admit you are a body of the government--means that the job is not being done.

Mr. Grossman: I suggested to you and the committee that I have discussed that from time to time. I did not use the words "fighting back." I have discussed it at times--

Mr. Cassidy: Maybe you should.

Mr. Grossman: Do you want me to tell you what goes on within the four corners of those meetings, whether I attack the minister and things of that nature?

Mr. Cassidy: Sure, go ahead. What did you say?

Mr. Grossman: In the first place, in all fairness to the members of my board, I do not think there is a group of more humane and sensitive people than the members of our board. With great respect, Mr. Cassidy, I think it is a bit unfair to mention the summary of certain cases without me having the files before me.

Mr. Cassidy: With respect, Mr. Grossman, I am using the samples which are published.

Mr. Grossman: Mr. Cassidy, you would appreciate on the face of it that sometimes--and I agree in my view--many of the sentences by some of the judges seem to be unreasonably mild, but unless you have been at the trial, unless you listen to the judge giving his reasons for the kind of sentence he is giving, you really do not know whether he was too liberal, too tough or whatever. You have to find out the reason.

If you show me a case where on the face of it it appears \$3,500 was ridiculously low, I would like to see the file, because there probably are some reasons.

Mr. Cassidy: But, Mr. Grossman, as I look through this, and I have not had a chance to read all of them, it would appear to me that in all the cases, particularly with money values what they are today, the awards are ridiculously small.

Mr. Grossman: That is a subjective matter. Besides which, as I repeat Mr. Cassidy, you would have to have heard the case or at least gotten the details of the case to find out the reason why that figure was arrived at, where it appears on the face of it that it might have been more to give that person--

Mr. Cassidy: I point out the documentary evidence, which is that the average value of your awards is half of what it was in real terms in 1971.

Mr. Grossman: You are talking about maximums, generally.

Mr. Cassidy: No, I am not. I am saying the average value of the awards you actually give is only half of what it was in 1971.

Mr. Grossman: Let me give you another--perhaps this is behind the philosophy of it and maybe you can touch on that. You know I welcome the discussion.

Mr. Cassidy: But I think you are far too conscious of trying to save the public dollars--

Mr. Grossman: I have to do that.

Mr. Cassidy: --as opposed to your duty to seek to reward or to give something to the victims. Are you in disagreement, or how do you assess damages overall? Perhaps you could tell me that, Mr. Grossman.

Mr. Grossman: There is no question that the board members, when they are making a decision on a case, are faced with a \$15,000 maximum. We have had people come before us who are permanently damaged for life; they become paraplegics. If all we can give that person is \$15,000, it is difficult to give \$15,000 to a person who has perhaps lost an arm.

Mr. Cassidy: But here is another case. A 20-year-old prison inmate was beaten by fellow inmates. He sustained a cerebral contusion and suffers from bilateral inco-ordination, spasticity, poor co-ordination in his left hand, mental retardation and aggravation of a pre-existing spastic condition. The offenders were sentenced for from two years to four and a half years' imprisonment for the offences. The pain and suffering awarded in that case was \$5,000.

Mr. Grossman: Are you suggesting, Mr. Cassidy, that the board should give a maximum in every instance where it feels--for instance, I would think that the loss of one arm, or the loss of one hand or the loss of five fingers of one hand is worth what we have as the maximum.

Mr. Cassidy: Here is a case where somebody lost a finger; you gave him \$2,500.

Mr. Grossman: That finger may have been much more important to him than it may have been for somebody else; it depends on his occupation or whatever.

Mr. Cassidy: But you just say you think the loss of an arm is worth the full \$15,000.

Mr. Grossman: I would say in my view; of course, if he went to--

Mr. Cassidy: Then why the devil not, Mr. Grossman?

Mr. Grossman: Because we would have run out of money the first month.

Mr. Cassidy: Why the devil are you not awarding it and then coming back to the government and telling them it is their responsibility to give you either a different policy mandate or more money?

Mr. Grossman: Mr. Cassidy, I have already referred to the fact that I do discuss these matters with the ministry. I would suggest, with great respect, and I hope you do not mind my suggesting it, that you do not even pass enough money to carry us through one year. The ministry has to go back, at our request, for supplementary estimates every year to get more money. May I suggest very strongly that at the next session, when the estimates of the ministry come up, you try to insist upon increasing that maximum to whatever you think it should be.

Mr. Cassidy: I will certainly do it.

Mr. Grossman: But within that mandate, which comes from the Legislature--because it is an act of the Legislature. Incidentally, I have studied the whole history of it. Everyone thought it was a great idea. I think you should keep in mind too that without this program, 99 per cent of these people would get nothing, because they are usually taking civil action against someone whose judgement proved--whether that should have any effect upon the maximum.

There is another factor. I think there has to be a maximum, because the board has a great deal of discretion. Here you have an agency of the government which has absolute discretion. If it did not have a maximum--whatever the maximum should be--they could give away the Treasury in one year. As a matter of fact, with 1,000 cases that we decide on every year, it would be a pretty good chunk when you are given a lot of discretion.

Mr. Cassidy: Let me give a couple more cases, Mr. Grossman. A facialist, who was kicked to the ground without provocation by an unknown assailant, had a fractured femur that caused permanent disability and pain, and reduced her ability to earn income in her profession. She was awarded \$15,000.

But here on the same page is a 34-year-old nurse who was stuck on the back of the head by a psychiatric patient. She lost 75 pounds. She developed a stutter. She suffered from vertigo, nausea, headaches and anxiety and she was unable to work for three years. In her case, you gave her \$5,000.

Mr. Grossman: Maybe she has income from another source as a result of what happened.

Mr. Cassidy: In those two cases, these were pain and suffering awards, and the pain and suffering of doing all those things, plus losing one's job for three years, was worth only one third of the pain and suffering to the other person.

Mr. Grossman: How much pain and suffering--I am trying to deal with a case on which you are giving me a meagre summary, which is what we--

Mr. Cassidy: Which is what you provide.

Mr. Grossman: Unless I had the file, it would be very foolish of me--

10 a.m.

Mr. Cassidy: What I am suggesting is that on the evidence of it, Mr. Grossman, the awards are inadequate and therefore there is no equity there. They are unjust. They certainly do not indicate any adherence at all to the standards proposed by the Canadian Bar Association in its recommendations with respect to victims of crime. Are you familiar with those recommendations? I am sure you are.

Mr. Grossman: I have read them.

Mr. Cassidy: Do you think they are reasonable recommendations?

Mr. Grossman: That is what the government and the Legislature thought, that the maximums in our act were reasonable.

Mr. Cassidy: I am saying, do you think that the bar association's recommendations in its recent report are reasonable?

Mr. Grossman: I do not remember the exact details of what crime was. I do not think I would like to give you an opinion on that anyway.

Mr. Cassidy: They say without--

Mr. Grossman: I am your servant. Just tell me what to do.

Mr. Cassidy: No. They say that when you assess pain and suffering, or when a board like yours assesses the material losses, the money losses of a victim of crime, you should begin by assessing what those damages would be. I would assume, therefore, that you would use the same standards as would be used, say, by the courts. You should then deduct from that any money that would come from other sources--I do not know whether insurance would be one of those; certainly any recompense made by the offender, the cause of the crime--and then at that point you would have a figure which would be your award.

If the maximums under which you have to labour happened to be less than that, then whatever your award was would have to be cut back down to those maximums.

Mr. Grossman: Mr. Cassidy, you are referring not to the bar association report, I think, but to the task force.

Mr. Cassidy: The task force.

Mr. Grossman: The federal-provincial task force. That is precisely what we do.

Mr. Cassidy: You do? I see. I do not remember finding any reference to that, for example. It would be very interesting and instructive for the Legislature to be told that in this case the award would have been \$35,000, but you had to cut it back because of the limits that are set. You do not say that.

Mr. Grossman: We started out in this report with the summaries. We put the summary of every case. Then, of course, it became illogical to continue that way. So we only put a summary of a small number of cases, to increase the amount of the information that was in here, I think. That was the situation. We no longer have a summary--lots of information in each one of these cases.

These are generally an illustration of the sort of work that goes on and the kinds of awards we make. It is a good reference for the lawyers who handle some of these cases, to look at and to get an idea. Really that is all it is for. You would have to go into a particular file to find out a particular--

Mr. Cassidy: Perhaps I can ask this. Where you judge that a particular case would justify, had you the power, an award exceeding \$15,000, to what level do you cut it back?

Mr. Grossman: As I mentioned earlier, in the minds of the board members when they are making the decisions, there is probably a comparison with what they are able to give for a maximum case, such as a paraplegic.

We have discussed this. The board members meet together in session once a year to go over all these problems that have arisen during the year. This is a perennial question. Do we start from \$15,000 and move down, or do we give what we think is a proper amount to a victim, regardless of the fact that we are giving the same thing to a person who has lost five fingers of a hand as we do to a person who becomes a paraplegic for life? It is a very difficult question.

There is no doubt in my mind that if we pay the maximum in every case we would like to do, if we had \$80 million--I just picked figure that out of a cloud--there would be a lot of cases where we would give the maximum, even though the public when looking at it, as you are, sir, looking through this book, would say, "This is ridiculous."

You have pointed out some of the contrasts. If you give someone who is a paraplegic for life \$15,000 and you give someone who lost five fingers of a hand \$15,000, where is the justice in that? You would raise that question too. What you are really saying is, should there be a maximum laid down by the Legislature which these people can handle and hand out--ex gratia payments--to the public?

Mr. Cassidy: That is a very long explanation. But what I am hearing you further say is that you take \$15,000 as being the maximum for an absolutely awful thing happening as a consequence of a crime and you prorate downwards; in other words, you totally fail to adhere to the kinds of standards that are suggested by the federal-provincial task force on justice for victims of crime; absolutely and totally fail.

Mr. Grossman: That is a matter of opinion.

Mr. Cassidy: No, it is not a matter of opinion, Mr. Grossman. I asked, were there to be a court case, for example, if in your judgement an appropriate award would exceed \$15,000, whether you then reduce it to \$15,000? And you have said no, you prorate downwards. That is where you come up with these ridiculous awards, so ridiculous that you have not even been able within your \$15,000 limit to keep your awards in pace with the increase in the cost of living.

Mr. Grossman: Mr. Cassidy, if you think we should just pay out the maximums, small as you feel they are, in every case where a person takes civil action and goes to a court and gets a judgement from a judge as to what the indemnity should be; if you feel that would be more just, even though we would probably run out of money in a month and then have to tell everyone else who made applications to the board, "Sorry, there is no money left," then--

Mr. Cassidy: I think we have a very real problem here. We have a justice system where--yesterday I was doing some notes on the back of an envelope--the lawyers in this province in their gross earnings probably well exceed \$1 billion per year. The justice system in terms of the police forces, the courts, the correctional facilities and that kind of thing will easily cost another \$1 billion a year. It is an expensive area, it is an important area and it is a difficult area.

It is gradually coming to people's awareness that the victim is often the person who is the least taken into account with regard to the consequences of crime. And it is not just the compensation that you are responsible for; it is such things--and the task force talked about it--as getting stolen property back to the victims quickly. I was appalled. I did not realize that victims of crime are made to go and pay their own pawn ticket and then somehow take some civil proceedings if a criminal has pawned goods that were stolen.

Mr. Grossman: It's part of my speech, Mr. Cassidy.

Mr. Cassidy: It is okay.

Mr. Grossman: I raised it, I see here, six years ago, publicly.

Mr. Cassidy: Good. In Ottawa, we have just begun a program, in which the Salvation Army is involved, which relates to counselling for people who are victims of crime. For example, if somebody's house has been torn apart and it is an older person, they may be reaching out in the community and getting a couple of volunteers to come in and help them clean up. In the past, the cops have come along and said, "Where are the clues?" They tear the place up some more, walk out and go and look for the crook.

Mr. Grossman: You know that I was on the advisory board for the Ottawa victims' service group.

Mr. Cassidy: I read that you were.

Mr. Grossman: As a matter of fact, I think they have just elected as president a member of our board.

Mr. Cassidy: I think it is a very positive kind of thing to go forward with.

Mr. Grossman: It should have been done many years ago.

Mr. Cassidy: One could say, why have we not done this before? We have not done it before. We are all responsible for that. I cannot lay that on you or anybody in particular, Mr. Grossman.

It does seem to me that the board, if nothing else, has been excessively cautious, excessively conservative, in making use of its mandate and its responsibility; quite surprisingly, I would say to someone like you, excessively quiet and out of the public eye. Given your previous role, that is certainly unusual. I just

think that you have a responsibility. You have an appointment. You have a platform. I do not suggest that you would be likely to go and sort of shout to the rooftops every week on this, but it does seem to me that there are means by which, in your actions, your words and public knowledge of what is being done by the board, you could bring to public attention much more vividly and actively the situation of victims of crime. You could do a more adequate job in compensation within your present powers and you could assist those elements in society who either care enough to feel that there should be more adequate compensation or who would respond with a very warm and positive response if they were really aware of it.

I am one of those. I did not know that limit had not been changed since 1971. You ask me and I say, "That is crazy." If you are going to do a job, at the very least you should be working within parameters of current--

10:10 a.m.

Mr. Grossman: Why did you not ask this board to appear before this committee years ago?

Mr. Cassidy: I was not on the committee until six weeks ago, so there you are.

Mr. Grossman: We are ready to come; in fact, I am pleased to know there is some interest in our board. You would be surprised how many public speeches I have made, but unless you make a good partisan speech and call somebody an SOB, it is pretty hard to get the headlines.

Mr. Cassidy: That is my job, I guess.

Mr. Rotenberg: You do that job very well.

Mr. Cassidy: Thank you, David. So do you.

Interjection.

Mr. Grossman: I know I was never accustomed to that kind of give and take; I was always quiet.

Mr. Cassidy: That is right, yes. It seems to run in the family.

You said a few minutes ago that you can live with whatever mandate the government or the Legislature provides. We have all got to work with whatever cloth is cut out for us, but we do not necessarily have to be comfortable with it. I think you act in these awards--and the awards have barely budged in terms of money value, in terms of dollars, since 1971--as though you are really quite comfortable with the situation as it stands.

Mr. Grossman: I would not say that. I do not think there is any government program with which everybody is completely comfortable. If you go up to that chamber there and give me another \$10 million a year, we could be much more generous.

Mr. Cassidy: I have a couple more questions, Mr. Chairman.

Your \$6,000 a year award, the maximum of \$500 a month, would mean that at the end of about 16 1/2 years--

Mr. Grossman: About 28 or 29.

Mr. Cassidy: I do not see how it becomes 28 or 29.

Mr. Grossman: It is \$175,000.

Mr. Cassidy: But for one individual, it is only \$100,000?

Mr. Grossman: Yes.

Mr. Cassidy: That is 16 years, and the board has been in existence since 1971. The chances are that before very long you are going to start to come into the situation where someone who got an award back in 1972 or 1973 is reaching that limit and where--

Mr. Grossman: Hopefully, the Legislature will change it long before that.

Mr. Cassidy: Are you aware of any cases like that?

Mr. Grossman: There could not be. The board has only been in existence for 14 years.

Mr. Cassidy: Fourteen years means it could have somebody who is within a year or two of being in that situation, where you would actually have to cut off the \$500 a month.

Mr. Grossman: I think in the early couple of years, they were not giving out \$500 a month. Sure, we are going to reach that eventually. There are going to have to be changes made, but I am sure the Legislature will change it at that time.

Mr. Cassidy: What is the situation with respect to welfare payments? If you make an award of, let us say, \$500 a month to someone who becomes disabled as a consequence of a criminal attack and that person has to rely for income on welfare or family benefits as well, how do those two programs intermesh?

Mr. Grossman: We take into consideration what they are getting in welfare in some instances. If we do not, as soon as the Ministry of Community and Social Services finds out about it, or whatever agency is providing it, they reduce their amount by what we have provided. The act tells us to take into consideration any other source of income. The Legislature had in mind at the time that no two agencies of government would duplicate each other's payments.

Mr. Cassidy: Is that reasonable?

Mr. Grossman: If you go over the records, you will find some of the differences of opinion were expressed at the time it

is current. You will find out that an issue was made by this board about the pain and suffering award some years ago--I think four or five years ago--and because we objected to welfare taking into consideration a pain and suffering award which we thought should not have been taken into consideration, there was quite a public hassle about it. The Ministry of Community and Social Services changed their regulations at the time. Their regulations now required them to take into consideration what they got from this board in addition to other boards. They had not included our board in that agency list, which they had the right to do.

Mr. Cassidy: I do not understand what that means. If you make a pain and suffering award and someone is on welfare, does that mean that they--

Mr. Grossman: They take that into consideration as an asset received by the welfare recipient and, therefore, the income from that asset or that asset would be allowed to be accepted up to a certain point. After that they would consider it income over a period of time, the theory being----I am not justifying, I am telling you what the theory is--if someone leaves a welfare recipient \$100,000 that welfare recipient should not feel they should be disqualified from getting their welfare payments. It is a lump sum, it is an asset and, therefore, it has nothing to do with the fact that they are unemployed and should get a payment, something of that nature.

Mr. Cassidy: So that means there is a partial--

Mr. Grossman: That is their argument. Their argument is that if you come into possession of an asset they will take that into consideration when they calculate whether you are entitled to welfare and how much. They have taken the same view.

We could argue it both ways. If we give someone who is on welfare \$15,000, they take the view that person should not be on welfare or if they continue on welfare only a portion should be exempt.

Mr. Cassidy: What portion?

Mr. Grossman: I think it is \$2,500 a year.

Mr. Cassidy: I do not understand what that means.

Mr. Grossman: It means they will exempt the extension to the limit of whether the asset would provide \$2,500 a year.

Mr. Cassidy: In other words, the income from the asset is exempted and the asset is exempted up to a certain point. Is that right?

Mr. Grossman: Up to a certain point only.

Mr. Cassidy: I see.

Mr. Grossman: Incidentally, we have many meetings with the Ministry of Community and Social Services. It is very

difficult because, in all fairness to that ministry, they have contracts with the federal government. The federal government lays down certain requirements and they also have to deal with other agencies. To try to explain it, in the first place I could not off the top of my head; it is a very complex arrangement, even the schedule.

Let me explain to you what they say here. We got this as a result of our meeting with them and all our board members have this in front of them when they are hearing a case: "A lump sum payment is considered income in the month received and an asset in the following month."

Incidentally, this is public knowledge. This is from the Ministry of Community and Social Services: "A \$2,500 liquid asset limit is allowed for a single person; \$3,000 is allowed for a single person who is 65 or over or considered disabled or permanently unemployable; \$5,000 for two persons any combination"--that is, the head of the family plus a child or couple, etc.--"and \$500 for each additional dependant. For persons on general welfare assistance, the suggested guideline for a temporarily unemployable person is to allow an asset level equal to one to three months' assistance, about \$250 to \$750.

"Assets used responsibly will not result in family benefits or general welfare assistance benefit termination. Examples are buying a house to live in, reducing the mortgage payment or personal debts, purchase of a refrigerator or home repairs."

This is what came out as the result of our discussion with them in order to come to what appeared to be a more reasonable solution.

"Persons on family benefits may, with the approval of the area director of the Ministry of Community and Social Services, accumulate assets in excess of the limit to save for a specific item necessary for wellbeing."

The arrangement we have made with them is where they have been advised that we have an award and it looks as if the assets have been made available to the recipient of our award, their area director will discuss with them the various ways they could use that money which would make it perhaps completely exempt from a reduction in their welfare, or at least partially, the manner in which they would spend the money.

10:20 a.m.

Mr. Cassidy: In the case of an award of income of \$500 a month or something less, I think what I am hearing you say is that, suppose somebody who is a breadwinner and who has a family became entitled to family benefits allowance, they would get, shall we say, \$600 a month in family benefits. Under those circumstances, any award you may give them for loss of income is basically wiped out. Is that correct?

Mr. Grossman: Basically, it would be wiped out by the reduction in their welfare. Perhaps I should point this out. If

that person, for example, had been in receipt of an income of \$1,000 a month, which is not that much today, and we had been giving him the maximum of \$500 a month--because that is all we could give him--and he was getting welfare payments up to \$500 a month and the welfare office cancelled out the welfare payments, we would then step into the breach again, which we have done, and then give him \$500 again, because they still have not reached the maximum they were earning before.

Mr. Cassidy: That is really bizarre. Suppose you have someone who was earning \$20,000 a year and became totally incapable of working, for physical and emotional reasons, and went right down to the welfare standard as a consequence of being a victim of crime. The fact that you have made them a substantial award is basically irrelevant because none of that award is available to compensate them in any way for the very sharp drop in their standard of living from what it had been before.

Should they, on the other hand, find a small job--let us say, making paper flowers, for the sake of argument--it may be that they would be better off to earn \$200 a month making paper flowers and take your \$500 than to take the welfare. Should they, on the other hand, get back to a job where they were earning \$1,000 a month, they would still get the \$500 on top of it from you.

Mr. Grossman: Because that was a loss of their income as a result of the injuries.

Mr. Cassidy: There is still a loss of income, but if they get welfare then the two agencies conspire to grind this poor individual into the ground.

Mr. Grossman: Who says the two agencies conspire? Mr. Cassidy, I just finished saying that if they reduce their welfare payments, the result of which would be that the person was still getting less than he was making before the incident, we would then step into the breach and we would give him the difference up to the maximum.

Mr. Cassidy: The fact that someone was the victim of a crime would make absolutely no difference than if they had, for the sake of argument, been a victim of an accident or something like that, but no matter how they got there, the fact that they come before your board would be irrelevant in terms of their standard of living. There would be no effective difference in their situation as a consequence of the fact that they were mugged by some idiot.

Mr. Grossman: If they were getting \$500 from welfare and we stepped in and gave them the \$500 and welfare reduced their payments by \$500, he would be in the same position in that respect except for his pain and suffering.

Mr. Cassidy: Have you sought to make any change in that situation?

Mr. Grossman: I have just told you, sir, about the debate that took place publicly four or five years ago. That was all thrashed out in the Legislature, if I recall. I think it was in the Legislature. I am pretty sure.

Mr. Cassidy: Okay. Thank you.

Mr. J. A. Taylor: Mr. Grossman, you mentioned that your awards were influenced by the financial circumstances of the individual. Is that correct?

Mr. Grossman: Not the pain and suffering award. We award for pain and suffering depending upon the degree of his injuries, and his income is offset to the extent that we are able to within the maximums. There is nothing you could do with pain and suffering.

Mr. J. A. Taylor: So it is just the income aspect of it?

Mr. Grossman: And pecuniary loss of any kind.

Mr. J. A. Taylor: I was trying to get at whether it was based on income or whether it was based on need, but I gather you are saying it is based on income.

Mr. Grossman: Pecuniary loss of any kind.

Mr. J. A. Taylor: That is interesting, in terms of Mr. Cassidy's remarks, because it makes it more difficult to evaluate in terms of the cost in dollars whether you are being more equitable and generous now than you once were. That may be dependent to some degree on the current circumstances of the people. Ontarians are generally better off today than they were 10 years ago.

Mr. Grossman: If you are talking about Ontario and you want to make comparisons with other jurisdictions, I would be pleased to do it. Ontario should be very proud of what it is doing. As a matter of fact, it was the first to put into effect the program.

Because it is a fact and not an opinion, I have no hesitation in saying that the maximums have definitely not kept up to inflation. There is no question of that. Any time you set a figure 10 years ago and it is still the same figure then, obviously, it has not kept up with inflation. That is a matter of fact, not a matter of opinion. I have no hesitation in saying that.

Mr. Conway: Mr. Grossman, I appreciate the chance to have the benefit of your comments here today. I must say that you and Mr. Cassidy continue to make a charming couple.

Mr. Grossman: We always had a great affinity.

Mr. Conway: I gathered as much.

Mr. Cassidy: Sean will make it a ménage à trois.

Mr. Conway: That may be the way to the coalition, Michael. I don't know.

Mr. Grossman, first of all I might say, just to digress at the outset, Mr. Cassidy invited you to comment at one point about your salary, which is in the range of \$60,000, to be considered on top of your Legislative Assembly retirement fund drawdown. I do not mean to belabour this, but you made a reference to the new breed around here and what we may or may not be doing to improve our post-retirement lot.

Mr. Grossman: What?

Mr. Conway: You made a reference at one point in your answer to Mr. Cassidy, defending the situation in which you find yourself, where you are drawing a \$60,000-a-year salary and--

Mr. Grossman: I was not defending myself, I was explaining something.

Mr. Conway: I would say you were defending it, sir. You can differ with that, but my impression was that you were quite defensive about an arrangement which, I just want to tell you, without prejudice, I think is essentially wrong. I do not think it is proper.

Since one of the things we are here to talk about are the funds that are made available for criminal injuries compensation, I have to say, sir, and I do not in any way wish to diminish your quarter century of public service to the people of Ontario because I think it has been a very major service, but the point that has to be established here, in my own mind at least, and it is one that has been accepted by some other governments, is that if we are going to have senior people like yourself leave the political arena and then discharge important functions in the public sector, I do not personally believe it is at all proper for people to draw a full-time, and in your case a deputy minister's salary, while at the same time being paid handsomely out of the Legislative Assembly retirement fund--true, into which you made a substantial contribution.

I think, personally, it is a wrong course of action for any government to follow whereby I, you, Mr. Cassidy, or anyone else, can be eligible and draw down a maximum or near maximum public service salary and a maximum or near maximum pension. I think that, as a matter of public policy, is something that--without really referring to you personally, but your situation; and I believe Mr. Yaremko as well, although I am not as familiar with that as I am with yours on the basis of what you told us here today--in our jurisdiction cries out for some redress.

Mr. J. A. Taylor: Mr. Chairman, can I have a point of clarification, if I can put it that way, on this issue? Not long ago I had the privilege of chairing a committee on pensions. It reviewed the royal commission report and we heard a great deal of evidence in connection with pensions. It was accepted by all

political parties and manifested in the report that pensions are now looked at as deferred income and, of course, the recommendation for early vesting.

10:30 a.m.

I would just point out in fairness that if pension contributions by the employer are looked at as deferred income, plus the employee's contribution, then really what you are doing is getting back, presumably in an actuarial way, your entitlement. You are collecting now what you put aside for your years after 65. I just point that out to you to remind you of the position of your party.

Mr. Conway: I appreciate the comments of the member for Prince Edward-Lennox. Regrettably, I did not have the opportunity to join him on that particular reference. I would only say to him that from my point of view there are pensions and then there are political pensions. I personally do not, have never and probably will not ever consider political pensions as ordinary pensions. If you want to submit that the parliamentary pension--

Mr. Breaugh: Something like the Canadian Senate.

Mr. Conway: Exactly. But we are having a discussion here today about the amounts of money available, and I wanted to make that point, to quote my friend the member for Grey-Bruce (Mr. Sargent), speaking as a private member, because I am sure that some of my colleagues might not necessarily agree with me, that I personally have always felt it is wrong, and I would continue to argue the case, for anyone to draw a full-time government salary at the same time as drawing down a maximum or near-maximum pension.

Mr. Rotenberg: Mr. Chairman, I would like to comment on that briefly because I kind of resent the remarks of Mr. Conway. I am here as a member of the Legislature. I am earning, and we all are earning, our salaries and our benefits, as every other person does. The pension that any one of us may get at some time in the future is not money coming out of the government at that future time. The pension we are getting is money that is going to the fund today. It is money I am earning now.

The pension Mr. Grossman is getting now is what he earned when he was a member of this Legislature. It was earned at a previous time. He is not drawing two salaries from the government now. He is now taking some money, which he earned when he was a member of this Legislature, which he is entitled to, whatever he does. Mr. Conway is going to draw down a pretty good pension whenever he retires from this place. For many, many years long before he is 65, he is going to be getting a pension; he might be getting a pension at 40 for life, which is going to be much better than anyone else. I would very much doubt, if Mr. Conway takes another job in government or anywhere else, that he is going to say, "Hey, I am going to have two incomes."

Mr. Conway: I am quite prepared for it.

Mr. Rotenberg: I think it is wrong for anyone to say that Mr. Grossman is now drawing two incomes from the government. He is not.

Mr. Conway: My position is clear. Obviously, Mr. Rotenberg, you differ, and that is the joy of a free democracy.

Mr. Cassidy: If I could just say a word about this, I think one of the reasons I asked my questions originally was that I had no particular preconceptions when we put this particular body on our list. But Mr. Grossman is drawing the pension plus a salary. It is a total of \$80,000 or so a year, let us say. I do not know what it is, and it does not particularly matter what the exact amounts are. Yet here is a board that is doling out nickels and dimes, is jealously guarding the public treasury and has shown no initiative or leadership in trying to do its job in relation to money values today. We are not getting our money's worth for \$60,000, but we are--

Mr. Rotenberg: Have you ever brought into the Legislature that the \$15,000 should be raised? You come here and you dump on Mr. Grossman, but it is your job and our job as legislators to raise that. You have never brought it up; yet you are making political hay when he is here.

Mr. Chairman: Gentlemen, I think we have gone far enough with this using Mr. Grossman's name. He has a statutory position. I think we have gone far enough with this and I--

Mr. Watson: What about members of the Legislature holding down two jobs?

Mr. Chairman: Excuse me. I think the subject had better end at that point.

Mr. Conway: If George Kerr wants to practise law in Burlington, it is his right. I do not hold it against him.

Mr. Watson: That is coming from the private industry. What about people who teach in universities that are getting public funding?

Mr. Grossman: As a former leader of this government once told me after he had retired, when I was discussing some difficulties with him because I had given up my business--I did a little bit of insurance business; I was not going to go back to it if I could pick it up at age 65--he said it was the best kind of occupation to have. Yes, he said, the best occupation to be in if you are going to go into politics is to be a lawyer. Many of us do not have law practices to go back to.

Mr. Conway: I know the feeling only too well, Mr. Grossman, and I think you make a good point.

Mr. Grossman: Mr. Cassidy, with great respect, only one thing you have said I resent. You can argue against this principle and there is reason for it; there are points in this argument. I

can argue both sides if you like, as many politicians can, because there is good rationale on either side. However, I think it was most unfair of you to suggest that whatever I was getting had any relationship at all to the way this board deals with people before it, which is the implication. It is more than an implication--"when they hand out nickels and dimes." It has nothing to do with it at all. I, as well as the members of my board, deal with the public with great sensitivity and what we consider great generosity, having regard to the limitation imposed on us by the Legislature.

I'm sorry. I could not let that go by, because that is a personal one.

Mr. Chairman: On some other subjects, Mr. Conway.

Mr. Conway: Yes, that was just a parenthetical beginning, Mr. Chairman.

You made reference, Mr. Grossman, in an earlier response to your board as "one of most humane and sensitive groups of people it has been your privilege to know and to work with." I thought that was a good introduction to your board. I have before me from your most recent 13th annual report of the Ontario Criminal Injuries Compensation Board, the page on which the board is listed, and I want to go through it with you quickly. Obviously you are the chairman. Anne Stanfield is one of the vice-chairpeople. Any relationship to the Honourable Robert Lorne Stanfield?

Mr. Grossman: I believe she is his wife.

Interjection.

Mr. Conway: I wondered if she is Mrs. Robert Stanfield.

Mr. Grossman: In case there are any ideas in your mind, she was a member of this board before she got married, and before I got there, too.

Mr. Conway: That is what I thought.

Mr. Grossman: She is very capable.

Mr. Conway: I do not doubt that at all.

Mr. Grossman: You are just remarking on it, that's all.

Mr. Conway: Oh, yes. I have a view that one's political orientation sometimes has a bearing on one's appointments to these kinds of positions. That is a beginning point. If you are under any doubts about my organizing theses here, that is certainly one of them.

Mr. Rotenberg: Mr. Grossman, did you say that she was a member of the board before she married Mr. Stanfield? I'm sorry. I did not hear that remark.

Mr. Conway: Who is Audrey Merrett?

Mr. Grossman: She is a housewife, a very capable person from Niagara Falls.

Mr. Conway: So Mrs. Stanfield and Mrs. Merrett, I presume, are both housewives, not lawyers.

Mr. Grossman: Mrs. Stanfield is a former teacher, I believe.

Mr. Conway: D. H. Lissaman?

Mr. Grossman: Lissaman is a lawyer.

Mr. Conway: From?

Mr. Grossman: A capable lawyer from Toronto, who, incidentally, is not on the board. His term expired.

Mr. Conway: So he is no longer on the board. Has his position been filled by anyone else?

Mr. Grossman: Since this, no.

Mr. Conway: No. So there has been no substitute. Robert W. Mitchell, QC. A Toronto lawyer?

Mr. Grossman: No, he is a retired London lawyer.

Mr. Conway: Harvey Spiegel?

Mr. Grossman: He is a Toronto lawyer. You were bringing up politics; I will not. He does not give us too much time, but he is very efficient. He does five or six cases a year.

Mr. Conway: You teased me there for a moment. My being in politics: you were going to say something?

Mr. Grossman: No, I wouldn't.

Mr. Conway: Nathan Sandler?

Mr. Grossman: Retired investment broker.

Mr. Conway: From?

Mr. Grossman: Toronto.

Mr. Conway: Uno Viegandt?

Mr. Grossman: Uno Viegandt is from Thunder Bay.

Mr. Conway: What kind of background?

Mr. Grossman: I believe Uno was in the insurance business. Is that right?

Interjection: Real estate.

Mr. Grossman: Insurance and real estate.

Mr. Conway: Mr. Sandler, you said, was--

Mr. Grossman: A retired investment broker.

Mr. Conway: From Toronto. Lee Monaco?

Mr. Grossman: She is a lawyer.

Mr. Conway: D. Arthur Evans?

Mr. Grossman: He is a former member of this Legislature. He is not now on the board. He is retired. He found he did not have time for it.

Mr. Conway: Linda Clippingdale?

I cannot, for some reason, hear you sometimes.

Mr. Grossman: Right now I have an infection in my ear. I put drops in it, and it is like trying to talk into a barrel, you get vibrations back. I do not know how loud or low I am speaking. I have no objection to speaking up loud. Just draw it to my attention.

Linda is from Ottawa, a housewife.

Mr. Conway: Dr. Richard Clippingdale's wife, I presume?

Mr. Grossman: I do not know.

Mr. Conway: John Hoyles?

Mr. Grossman: John Hoyles is a lawyer from New Liskeard.

Mr. Conway: And Greville Clarke?

Mr. Grossman: Greville Clarke is a teacher at George Brown College.

Mr. Conway: So I take it that there are two vacancies. Am I correct?

Mr. Grossman: There are no such things as vacancies, because there is no limit to the number of members you can appoint.

10:40 a.m.

Mr. Conway: Has this reduction by two from this complement put some added pressures on the board? Could you use another couple of hands?

Mr. Grossman: There are some. I have asked for others. Hopefully, shortly we are going to get two completely bilingual members.

Mr. Conway: That was one of my questions.

Mr. Grossman: Mr. Hoyles is fluently bilingual; we want two more, and I think we are going to get them. But that is, of course, up to the Premier.

Mr. Conway: When you ask for candidates--for example, in your request this time--have you indicated through the Attorney General to the Premier, the government or the Legislature, as you have so carefully pointed out on many occasions this morning, what, if any, preference you have? Have you indicated particularly that you want people who are bilingual? For example, I do not recall anyone on this list having what we would generally call a social service background. As a board, do you feel that might be a useful kind of background to have on at least one person's part?

Mr. Grossman: I think all aspects of our community, all aspects of the disciplines add something to a board. The only thing is, you cannot get someone from each discipline and each interest; you would have an unwieldy board. All the board really needs is intelligent, sensitive and compassionate people.

Mr. Conway: One would say, sir, that the board tends now in the direction of lawyer and businessmen types.

Mr. Grossman: Not really. I think there are three or four lawyers; two of them are not very active in the board at all. They take the odd hearing when they have time. It is handy to have them around when you need somebody.

Mr. Conway: If that is the case, who are the really active members of this board now?

Mr. Grossman: They are all active. I should not say all, except--

Mr. Conway: By what you have just said, some are obviously more active than others.

Mr. Grossman: They can give more time, yes.

Mr. Conway: Who would be--

Mr. Grossman: Mr. Spiegel, as I told you, cannot give us much time. Mr. Hoyles can give us a little more time but is always subject to being called to court some place or subject to difficulties in logistics and transportation to get here sometimes; he is now taking about two or three a month.

Interjection: Three.

Mr. Grossman: Three a month.

Mr. Conway: How much would the most active board member be doing?

Mr. Grossman: Probably around six a month.

Mr. Conway: So it is six days a month.

Mr. Grossman: Yes, six days a month.

Mr. Conway: What about yourself, Mr. Grossman? You mentioned a couple of things in your earlier comments, one of which indicated that you make, as you have over your adult life I suspect, a lot of speeches. What kind of speech-making have you been about lately?

Mr. Grossman: Service clubs; schools. At one gathering--I cannot remember where it was, and I was reminded this morning that maybe I should have sent a letter out--I had indicated to all the members who were present at that particular meeting, and I cannot remember where it was but I think it was a reception here, that if they were looking for a speaker even for their riding association in their area, I would be very pleased to come out and speak to them about the work of the board.

Mr. Conway: Have you ever done that? Have you ever spoken to a riding association about the activities of the Criminal Injuries Compensation Board?

Mr. Grossman: I cannot recall one.

Mr. Conway: Can you remember when you last travelled into eastern or northern Ontario to take a public service speaking engagement to outline the activities of the Criminal Injuries Compensation Board?

Mr. Grossman: I cannot recall.

Mr. Conway: You cannot last recall--

Mr. Grossman: I would be very glad to go.

Mr. Conway: But you cannot recall ever having done that. You have not spoken to the Thunder Bay Chamber of Commerce about your activities in recent months?

Mr. Grossman: I do not recall. I may have, but I do not recall.

Mr. Conway: Can you share with me, for example, any of your recent speaking engagements where the subject was the Criminal Injuries Compensation Board?

Mr. Grossman: Recent ones?

Mr. Conway: How often do you do this sort of--

Mr. Grossman: The Law Society of Upper Canada at their--I forget what they call the course; it is sort of a quick refresher course.

Interjection.

Mr. Grossman: I have spoken to the Rotary Club in east Toronto. I have spoken at the Rotary Club in Orillia. I think I have probably currently been taking about eight or nine a year.

Mr. Conway: Eight or nine a year. But you cannot recall having been into the north or eastern Ontario?

Mr. Grossman: I cannot recall that.

Mr. Conway: I might just encourage you to do so, sir.

Mr. Grossman: I have some pride. I do not pick up the telephone and say, "Would you like me to speak to your organization?" I try to get the word around wherever possible.

Mr. Conway: Mr. Giuffre, you are the registrar currently. Could you tell me a little bit about yourself, who you are, what you did prior to becoming registrar?

Mr. Giuffre: I was with the Ministry of Revenue since 1961. I started out as one of the tax administrators there and moved into administration. I became the director of administration and then the director of finance and administration. When they were moving to Oshawa, I opted not to go to Oshawa as I am deeply rooted in Toronto and took a lateral move down to the board.

Mr. Conway: What do you do as registrar?

Mr. Giuffre: In what respect, sir?

Mr. Conway: What is a day in the life of a registrar for the Criminal Injuries Compensation Board like?

Mr. Rotenberg: He answers questions from members of the Legislature.

Mr. Giuffre: I do all the administration for the board.

Mr. Grossman: He is in charge of the administration. That is why I was very pleased to get him in, because his experience really was as an administering officer.

Mr. Conway: Perhaps I can draw you out a little bit on this, sir. I am just interested to know. When you say administration, what kinds of things does that involve?

Mr. Giuffre: Internal administration; the financial end of the expenses of the board. We look after the compilation of all the files. After they have been completely investigated, we set up the hearings throughout the province, whether they should be in Toronto or one of the other areas. I assist the chairman in setting up the board for the hearings. Any problem questions on policy are always referred to the chairman.

Mr. Conway: Mr. Grossman, in your capacity as chairman of the board, do you have a special assistant, an executive assistant or an administrative assistant? Is Mr. Giuffre your right-hand man in terms of all these matters?

Mr. Grossman: In terms of administration; I should take the opportunity to point out that I have been very conscious of running an operation as economically as possible, and we are

running it with almost the same staff we did 10 years ago. I am very proud of that. In constant dollars, our costs per hearing have come way down.

We are just getting to the stage now where we have been asking for some more assistance, because you can only go along so long. For example, we have been doing without a vice-chairman now for four or five years, which adds to my load, but I was prepared to do that to keep the costs down and perhaps get another investigator.

Mr. Conway: So you are asking now that a new vice-chairman be designated?

Mr. Grossman: No.

Mr. Conway: You are not?

Mr. Grossman: No. I would rather have another investigator.

Mr. Conway: Since you have mentioned the costs relative to the duties--and Mr. Cassidy established the point that the payments for victims have not been adjusted since the act some 10 years ago--have we, the sovereign Legislature, adjusted the per diems? Does anybody know that?

Mr. Grossman: Yes. I think they have gone up \$12.

Mr. Conway: But they have been adjusted?

Mr. Grossman: I think about a year or so ago.

Mr. Conway: Mr. Grossman, perhaps you would reintroduce the lady to your right.

Mr. Grossman: I introduced her at the outset. I am sorry if you were not here.

Mr. Conway: I was here, Mr. Grossman.

Mr. Grossman: This is Patricia Hoole, the secretary to the chairman. As a matter of fact, you have got here almost a quarter of the staff.

10:50 a.m.

Mr. Conway: Miss Hoole, you basically are part of the administration?

Miss Hoole: I do as directed by the chairman. I do not have anything to do with administration or decision-making, no.

Mr. Conway: Fine. Thank you for that. I appreciate--

Mr. Grossman: Although we depend on her memory a lot, because she has been with the board for the longest term of any of us.

Mr. Conway: One of the reasons I was asking you about your speech-making was that you did make reference to it and you also something about an international meeting. Is there an international association?

Mr. Grossman: Yes. There is a Canadian association which I have tried to formalize, and I think it will probably be formalized this year, and there is an international one. The international meets every two years. The Canadian association meets every year, the second year always in conjunction with the international association.

Mr. Conway: Like Mr. Cassidy, Mr. Grossman, I am a member from the far east of this great province. While I have not been around as long as Mr. Cassidy, I have been here for the better part of eight years--Saturday.

I must say the Criminal Injuries Compensation Board is not an agency about which I know very much at all. It is not a board that has very much profile in my part of the province, as I see it. I make no analysis of this. I judge the world by the crises that parade by me in my constituency or the developments I see in the region.

I must say I do not get the feeling that you are a very high-profile organization. I wonder how many eastern Ontarians know about your existence or, for example, that you are even there and how one would go about taking advantage of your services.

The information package which we were provided with indicates there are these kinds of information--

Mr. Grossman: Those are for emergency wards of hospitals; that is where they are designed to go--hospital emergency wards and staff lounges.

Mr. Conway: Those have been distributed to the hospitals of Ontario for the past number of years?

Mr. Grossman: I started that about five years ago in conjunction with the Ontario Hospital Association. They mailed out a set of those to every hospital in Ontario. About two years ago, we repeated that. You still go into hospitals and some of them do not have them. That is what they are for.

Would you like me to go into what we do by way of publication?

Mr. Conway: Yes, I would, because I am going to ask you, as a supplementary question, what I might find if I were to walk in, as I have not done, to the Pembroke police force and simply inquire about my situation if I were a likely victim or a candidate for your consideration? What do you do specifically with police forces?

Mr. Grossman: May I first say that every jurisdiction in the world has the same problem, and at every annual meeting we ask, "What can we do to make the public more conscious of the work and the existence of the board?"

It is a difficult thing. Every modern jurisdiction has social programs and has so many of them that very few people--probably nobody--know all the social programs. I suppose if you talked to many people about the motor vehicle accidents claims fund, they would not know about that either, until they get into an accident. There are so many programs and this is why we cannot get the message across.

The most important factor in letting the public know, as far as this board is concerned, is really the report of the awards made by the board in the media. They get quite a number of copies about our awards. They go to the Canadian Press.

We have distributed hundreds of thousands of these wallet cards to the police across this province. In spite of the fact that the police are told about this in their training course--and I have spoken to the police association out in Peterborough--and in spite of the fact that they themselves are victims and make application to this board, we find that there are not as many of the police carrying and distributing these as we would like.

We have posters, supposedly all across the province. The Attorney General's communications branch distributes those. We have pamphlets in five languages which we distribute when we can. The ministry's communications branch distributes them in shopping malls, courtrooms and places of that nature. The guides are sent out to an applicant as soon as we get an application.

Mr. Conway: I thought that was a rather good guide. Just looking at it, I thought it was well put together. By and large, the Attorney General's ministry in my experience is pretty good at getting information out, some of it excellent information, to members' offices. In the eight years I have been a member of the Legislature, I do not think I have ever received anything from the Criminal Injuries Compensation Board. I grant you I have not had many inquiries about it. I could put them on one hand, I suspect.

Mr. Grossman: I must admit to you that it was only about two or three months ago that it came to my attention that the members' constituency offices were not provided with material from our board. I was shocked at that. With my experience, I should have thought of that in the first instance. I presumed that this was being done. As soon as I found that out, I put the machinery to work to make sure that was done. I understand they are still not distributed to any large extent; that is, in quantities.

Mr. Conway: That is certainly going to be appreciated, I am sure, in Mount Forest and Stratford and elsewhere--

Mr. Grossman: The same thing applied in Toronto.

Mr. Conway: --but if I am right in thinking about what would likely happen with a victim, the first contact would be either the hospital or the police station. Do I take it that you then monitor police stations or detachments of the Ontario Provincial Police with some regularity to see whether they are doing anything with these cards?

Mr. Grossman: Some of them are and some of them are not. When I was in Ottawa, I was told that they had never seen our card. How that is possible--

Mr. Conway: Have you then undertaken conversations or discussions with the Solicitor General, saying, "Dear George, please"--

Mr. Grossman: These were sent out with the co-operation of the Solicitor General in the first instance about six years ago.

Mr. Conway: So you have some commitment from the current Solicitor General to see to it that police officers and stations are making this--

Mr. Grossman: We are now doing this through the head of the Ontario Police Commission.

Mr. Conway: I appreciate that.

Mr. Grossman: Mr. Conway, I hope you will keep in mind that we are attempting to carry out our work with a minimum of staff. We have done everything possible to avoid building a big empire, and I guess that was my training on the Treasury Board. We could use 25 more people. We would like now to get maybe two or three, but we have done without that additional help for a long time.

For example, we would like to look after all of this distribution ourselves; that would mean extra staff. I have higher priorities from the standpoint of extra staff than getting someone here when we get it done by the ministry.

Mr. Conway: You have raised another question, and it is probably answered in here. As of the summer of 1983, how many permanent staff does the board have?

Mr. Grossman: Thirteen.

Mr. Conway: How many of those are investigators?

Mr. Grossman: Four. That includes the chief of investigation, who is also the deputy registrar.

Mr. Conway: Thank you. I have just a couple more questions. I was struck by the comments of the former chairman of the board, Mr. Eric Silk, QC. It is in our briefing notes, and I am going to ask you to comment. He says of the board: "The board is as much a trustee of public funds, with wide discretion as to their distribution, as it is a quasi-judicial tribunal." Does that represent the view of the current chairman?

Mr. Grossman: I guess in a way we are the trustee of public funds, if that is what you are concerned with. I thought about that myself the first time I read it, but I think we have to consider that we are unlike a court, where there is a judge making a decision as between two litigants. The judge does not have to find the money. He says, "You pay him \$1 million," and that is the

end of it. We have to find the \$1 million. I guess to that extent, we have a very high degree of discretion. I think that is what Mr. Silk was really referring to, that we have a high degree of discretion. We have no yardstick.

We have to be very careful when we want to be very generous with a person that our generosity has some bounds. As I said earlier, there are people we would have liked to have given \$1 million to, but they are tax funds and we are limited by the amount of money we get.

Nobody has ever told us, "Take it easy." We must presume that if we ran out of money and the Attorney General could not get any more, we would be faced with two alternatives. We would say that from here we are not going to have any more hearings until the funds come in for the next year, or we would carry on with the hearings and tell people they are going to have to wait six months or a year for some money, which would not be desirable either. I think that is really what he had in mind.

11 a.m.

Mr. Conway: By the way, as a nonlawyer, you do very well using the parlance of the legal profession. I love that phrase "between two litigants." Perhaps you have been around the Treasurer too long; but that is a lovely legalism, I thought.

I want to just ask you if the lack of a yardstick is, in your estimation, a serious difficulty.

Mr. Grossman: We manage with it. I think generally speaking you mean are we being more favourable to one person as against another in respect of the amount of an award.

Mr. Conway: It seems to me you are in a situation where you have wide-ranging discretion, you have an obvious cap, you know your dollars are limited and you have a limitation on the amounts you can award under your consideration. It just seems to me that it might be a lot more helpful for you as a board if, through the sovereign Legislature, we were to provide you with a set of regulations, a yardstick that gave you a better understanding of where you might go in terms of government policy.

Mr. Grossman: Do you mean from the standpoint of awards?

Mr. Conway: Yes, exactly.

Mr. Grossman: The only concern I would have would be that you would be really putting into effect the situation as it exists for the Workers' Compensation Board, and I do not have to tell you there is a lot of concern about the restrictions placed on them.

I would think that by and large it would be easier for us, certainly a lot easier for us, as in some instances we would prefer that we did not have certain discretions. That would make it easier for us, but I do not think it would do us much justice.

The legislature decided that this is something different, that by and large we are going to be dealing with applicants who are not going to be able to afford lawyers, who are not going to be in a situation where they are asking for a tremendous amount of money. They are people who, if they did go to court, might get a judgment of maybe \$1,000, \$2,000, \$3,000, \$5,000, and they would be better off if they went to an informal hearing where their particular case was dealt with; and each case is different, it really is.

My short answer would be it would be easier for us, but I do not think it would be better for the applicant.

Mr. Conway: I am interested in your appeal procedure. It seems to me that the board has the right, sitting as a board of at least two members, to review and overturn a decision taken by a board member sitting singly on a case. Is that correct?

Mr. Grossman: That is right.

Mr. Conway: How often is that done? Is that done very often?

Mr. Grossman: It has happened once, and it proved to me that it would be very embarrassing for the board members if they were overturning a decision I had made.

I was concerned about my position in hearings, that if the chairman was taking a case--and I was taking a lot more cases in those days--it would be very embarrassing for a member of the board to disagree with a decision which the chairman had made when he was hearing the case. That happens very rarely because I take very few hearings now. If your question is, does that provide any difficulty now? it does not. It has happened, but it does not happen too often.

Mr. Conway: We Catholics call that ex cathedra. It seems to me that--

Mr. Grossman: What happens is that by and large the two members thrash it out between themselves. It is surprising how on a particular case, without any schedule, they will generally arrive at the same conclusion. One of them may say, "I think we ought to give this person \$4,500," and the other person may say, "I think he is worth about \$7,000," and they thrash it out. Generally, I think what happens, or I am sure what happens is they settle it somewhere in between, so they do not have to call another hearing and all that sort of thing, which I think is probably the best way.

Mr. Conway: I am very interested in what you said earlier, given your past experience as a member of the executive council, that you are worried about the potential embarrassment about being overturned in terms of a decision.

Mr. Grossman: It would be difficult for two board members, who have to live with the chairman, to overturn a decision which he has made. I think it would be embarrassing. It has not happened, but you asked me what I thought about it and I gave you my opinion.

Mr. Conway: So you are then content with the appeal procedure as set out in your current legislation?

Mr. Grossman: As far as I can see, I see nothing wrong with it. We have had no problems, we really have not.

Mr. Epp: May I just ask a supplementary here? How do you differentiate as to when you send a single member and you send two members?

Mr. Grossman: We rarely send a single member. We arrange for two members. The only time there is a single member is when one member does not turn up for some reason at the last moment. All our hearings now have two members. It used to be three members but that was another economy we put into effect; rather than have three, let two go. Sometimes it is difficult, because over some difference of opinion you would have a third person to give a vote. But it seems to be that would be all that would be needed. It has worked out very well. Now we see two-member panels.

Mr. Conway: I have two or three other questions, Mr. Chairman, and I will not belabour the point.

Mr. Grossman, there are a number of debates developing now about belated aspects of criminal compensation. I would like you to comment on both of these.

The first is that argument which says, "Let there be a clearly defined public policy abroad in the land where the criminal will make direct restitution"--make the criminal pay both as a matter of restitution and as a way of introducing additional funds into an already depleted, overburdened account, from what we heard here this morning.

How do you view that as a leader in this field now for the past number of years?

Mr. Grossman: I would comment on a portion of your question where it appears to get really close to what government is discussing now. I am not so sure of it. Let me say that lately a big fuss has been made about restitution. But, as far as I can recall, without being in the legal profession, there has always been restitution. Some judges have always ordered restitution.

Indeed, when I was Minister of Correctional Services, in our training schools--which were under the jurisdiction of that ministry--which were near small communities, every now and then there were kids who would commit some vandalism. At that time, they were ordered, under supervision, to undo the damage, to repair it. That was restitution of sorts.

As for restitution generally insofar as victims of crimes of violence are concerned, that really is a fantasy, in my view, because an offender in a crime of violence usually is financially worthless; usually you will never find him, he disappears. We, in fact, get restitution where it is possible.

If you read the material, you will know that we recommend subrogation in some instances. Even in some instances where we

think there is little likelihood, we like the public to know that we are after it. But we recommend subrogation, and the law officers of the crown go after the person against whom we have recommended subrogation.

You can see how much we have received. I think in the last annual report we have shown that that was the largest we had every year back--\$30,000. That was out of awards of \$2.5 million. What kind of restitution are you going to get from a person like that? Certainly, you are not going to want him to do some work for you. If a person commits crimes of violence you are not going to want him around your house. I would not want him around my house.

There are some instances where restitution would be indicated, and I imagine that is being done now. There is nothing wrong with it. I believe in it as a principle. But when it is related to crimes of violence, I think we are giving the public the wrong impression.

Mr. Conway: I take it that what you are saying is that governments ought not to proceed, or that it would be unwise, in view of your personal experience, to construct a public policy whereby a convicted criminal ought to be forced to make a payment into a criminal compensation fund following upon his or her individual conviction.

11:10 a.m.

Mr. Grossman: That is another matter, Mr. Conway, with great respect. Now you are talking about where you get the source of funds. If that is what you mean by restitution, then that is not really restitution, because you are charging somebody who did not commit the crime.

What I was referring to essentially are crimes of violence. The danger there is, if you are including offenders who offended by way of violence, if you are including those types of criminals who should give restitution, you are giving false hope to the public to think that much will come of that.

Other restitution is another matter. If you have stolen something from somebody, then, of course, as far as is humanly possible, you get them to make restitution. As to whether you should get restitution through a surtax on penalties in the courts, I have strong opinions on that, but with great respect, I would rather--if the government is considering it now, I should not be giving my opinion unless I am asked for my opinion by the government. I think you will understand that.

Mr. Conway: If you were asked by the Legislature, as you are now being asked, since the Legislature is, by your earlier comment--

Mr. Grossman: I am worried about that. I am very concerned about it. I was asked by a very prominent person involved in the federal-provincial task force. I gave him my opinion. The opinion is dealt with in some way in the report,

without attribution. I felt I wanted to help the Legislature. I want to help these task forces and I want to help all the government agencies do their work properly. I appreciate the fact that a committee of the Legislature should be co-operated with as much as is humanly possible, and one should give it the information it seeks.

I was very strong about that when I was on a committee myself. I raised hell, I can tell you that, when we got somebody here who did not seem to want to answer a question. But where it would appear to me that there was no question of openly differing with the ministry to whom you were answerable, I was very strong on that. Quite frankly, I am in some difficulty now. I do not like it.

I would like to give you an answer to everything you want and give you my personal opinions, which are very strong in some instances. They overlap into the criminal justice system generally because I have had a lot of experience with it, in spite of the fact that I am not in law. I had it through Correctional Services and I have had it in my present post. I have seen a lot of things that I would like to see changed. I do my best to make sure that information gets to the people who are mandated to do something about it.

Mr. Conway: You are talking to those people right now, Mr. Grossman, and I cannot imagine a better opportunity. Truly, you would want to share with this Legislature the views you expressed to an extraparliamentary task force.

Mr. Grossman: I will have to beg off that one.

Mr. Conway: A useful point perhaps. It is always a reminder of where the real power lies.

Mr. Grossman: The real power lies with the government.

Mr. Conway: So much for the earlier political sighs about the "sovereign Legislature." That is all.

Mr. Cassidy: Could I ask a supplementary? Mr. Grossman, your body comes before this legislative committee once every six or seven years, or rarely as you pointed out. We are the Legislature, this is your chance, you have the immunity. If you have given advice and prepared recommendations for some other body, why the devil can you not let us have your views?

Mr. Grossman: You are really asking a question that has nothing to do with our board. As far as our board is concerned, Mr. Conway, it does not make any difference from which source we get the funds. It does not make any difference at all. Whether the government takes it out of the consolidated revenue fund, which it does now, or whether it wants to take it in some special tax, that is up to you. It is not up to me. We do not care where the money comes from.

As far as my position on this board is concerned that is a question which, with great respect to the committee here, I can say is really none of my business.

Mr. Conway: Let me then try the second of my questions in this area. A very eminent member of this Legislature, the Justice critic for the New Democratic Party, your long-time colleague from Riverdale, Mr. James Renwick, introduced what I thought was very interesting legislation not many months ago. If I fairly represent Mr. Renwick, it was essentially that any moneys that would accrue to a criminal--

Mr. Grossman: The Son of Sam legislation.

Mr. Conway: --that sort of thing--as a result of publication or any profiteering that criminal might manage as a result of speaking writing about his or her crimes, any of those moneys, for a time at least--I think it was a five-year period--should be made available to the Criminal Injuries Compensation Board. How do you feel about that kind of an initiative?

Mr. Grossman: I think if you can get funds from any source, give it to the victims as compensation. So far we are getting all the money that we need within the framework of our maximums. It does not make any difference to us where we get our money from.

Mr. Conway: So you would be quite prepared to accept moneys that might flow to the fund as a result of the Renwick proposal?

Mr. Grossman: It doesn't make any difference. That is entirely up to you.

Mr. Conway: Do you think it would be a good idea just generally? Because I think in the community--

Mr. Grossman: Now you are asking me.

Mr. Conway: It seems to me that in the community--

Mr. Cassidy: You used to be so forthcoming.

Mr. Conway: --there is a revulsion at the thought of people profiteering, as you indicated in the Son of Sam case, or in our own situation in Canada with the Olson matter. I just wondered if you had an opinion.

Mr. Grossman: I have an opinion, but do you really want my personal opinion? Perhaps at another time, but as chairman of this board I do not think it really is the concern of the board.

Mr. Conway: All right. I will come back to my last questions, which deal with your annual report. We all get your annual report and I do generally flip through it. You are quite right, it is a one-day wonder in our print media particularly.

Mr. Grossman: Incidentally, if I may--forgive me for interjecting--it is one of the most comprehensive reports any compensation board puts out.

Mr. Conway: Right. I will accept your judgement on that entirely. I just have made no comparative analysis.

I have some problems with this and I am going to share them with you right now. I was thumbing through it this morning and I was struck by a couple of things. The first is, when you provide thumbnail sketches of these cases, you invite what might unfortunately be invidious comparisons. Let me just share a couple with you now.

Mr. Grossman: I will agree, right in advance.

Mr. Conway: I was struck by a couple of things. I am going to refer to pages 41 and 56 of the report. Let us start on page 41. We have an applicant, a 17-year-old student who was assaulted without provocation in a schoolyard. He sustained a fractured nose, multiple lacerations, bruises, and haemorrhages of the eyes. The offender was convicted of assault causing bodily harm and received a suspended sentence plus two years' probation. Your award to this 17-year-old student was \$780, including \$750 for pain and suffering.

Then we go to page 56. I noticed at the top of that page, a 29-year-old police constable fell and fractured his wrist while chasing a suspended thief. No charges were--

Mr. Grossman: Are we talking about page 56?

Mr. Conway: Page 56, at the very top of the page.

Mr. Grossman: You must be talking about a different report.

Mr. Giuffre: You are a year behind.

Mr. Conway: Oh, I am sorry. It is 1981. Sorry.

Mr. Grossman: I think your point is well taken anyway.

Mr. Conway: But in this we have a 29-year-old police officer who falls, fractures his wrist, chasing a suspected thief who turns out to have no part in anything criminal. He is awarded \$750. What really caught my eye--and, again, this is unavoidably invidious in terms of comparison, because I do not know the details--is this applicant, a 72-year-old woman, was assaulted and robbed on the street. She sustained a laceration over the left eye, a swollen jaw and cheek, abrasions and contusions. No offenders were apprehended and she gets \$750.

What struck me about that was, in the first instance, here is a police officer and in a number of these other cases in this report and in others--and maybe I am wrong and I want to be corrected on this--police officers, plant foremen, others who, I am almost certain, are eligible for coverage under private insurance schemes, workers' compensation--

Mr. Grossman: Workers' compensation covers police officers generally.

Mr. Conway: But the 72-old-woman who was mugged is the same as a 29-year-old police constable who fell.

Mr. Grossman: I cannot answer that--you heard the answer to Mr. Cassidy--unless I see the file. The concern you have expressed, Mr. Conway, is our concern and particularly my concern. I appreciate this is what is happening. When you read this report you can come to some of these conclusions.

11:20 a.m.

What happens is we have summer students come in under the government summer student plan. We get someone who is capable to do this kind of work. He or she goes through our files, every second file, makes a summary of it and it goes into this. That is the way it is done. To do it any other way is, again, going to mean more staff. I must tell you, I am very conscious of that, and how important it is.

There are some jurisdictions who will give you a half a dozen examples which they choose, incidentally, which they deem will be illustrative of the kinds of cases they have. I was always afraid of doing that. I said that what we will do is put every other case in as they come up, so that there be no suggestion we are choosing the cases to illustrate. That is the system that is employed. I agree with your concerns. I am concerned. If you have any alternative suggestion which is practical, we will be glad to have it.

Mr. Conway: It strikes me as important because you do have wide-ranging discretion. As I thumb through this report, the question that continues to raise itself in my mind is what kind of circumstances and what kind of discretionary power led to a judgement in favour of a police constable who is 29 and who appears, in my estimation, to be--well, the treatment of that 29-year-old police constable and the 72-year-old woman seems to be remarkable, because I--

Mr. Grossman: If you would be good enough to give us the file numbers of those cases, I will pull out the files of your interest and I will see what--

Mr. Conway: My point is simply this. With such wide-ranging discretion, when you publish this kind of a catalogue of cases in such thumb-nail form, you really invite a lot of interest in just how that discretion is applied. I just use those examples, because they just jump out at you.

Mr. Grossman: So I take it. If you have any suggestions of how we can--we have thought about a different system. The only other system, which I referred to earlier, is to choose a dozen cases or 50 cases perhaps, although 50 would be a big job too, doing it in greater detail, but then in that case we could be considered to be choosing the ones that make us look more favourable.

Mr. Conway: Other members here could help me with this perhaps, but I know our Ombudsman in his report--is that a complete catalogue of everything he deals with or does he selectively choose illustrative cases? Does anybody know?

Mr. J. A. Taylor: I do not think it is comprehensive in terms of everything he deals with. I think what is focused on principally are workers' compensation matters and then only those that are a little higher profile.

Mr. Conway: Thanks, Jim.

Mr. Grossman: Would you like to find out how much the Ombudsman spends to get all those files together for his report?

Mr. Conway: Allan, do not remind me. Vern Singer's revenge. I thank you for your responses.

Mr. Breaugh: I have followed with some interest the workings of the board since I have been a member. One of the things which has to be said is, at least in my experience, there is not a great deal of interest, or has not been in the past, in what happens to people who are victims of crimes. I do not know why that is. That is a sad piece of business, but it is unfortunately true.

It seems to be reversing itself somewhat with the publication of the task force. I notice that the chiefs of police have decided that this year they are going to make a special effort to try to inform the public about what happens to victims of crime. I do hope that, in a number of ways, we continue to try to look at this particular problem.

One of the things which has always struck me from your annual reports is it rather strikes a blow at those of us who are pretty smug in Ontario and seem to think that there is no violence here, that this kind of stuff does not occur in Canada, that this is not the United States and there is no wild west atmosphere. Yet when you read the summary, all these things are very much here in Ontario. For some reason, we choose not to pay much attention to it.

I have a couple of questions I want to ask and I want to preface it by saying that one of the things which strikes me, in reviewing these agencies, because we get quite a variety of them before this committee, are priorities.

For example, the one we did last year, the Wolf Damage Assessment Board, not a terribly active group of folks, but there, for reasons which escape me, it is pretty cut and dried. If some wolf comes down and damages a farmer's herd of sheep, you go out and get somebody to establish how much the herd is worth, and you just simply add up the numbers and you pay the guy.

However, in other areas where it is not so cut and dried, and perhaps because it is a good deal more expensive to do so, we get into a different kettle of fish, this board being one of them, where, after there is a crime and a victim established and damage

occurs, we then ask those people to wait eight months and we ask the tribunal to go and sit, and they make a set of rather complicated assessments as to how much damage is actually done in monetary terms and an award is made. That is a rather different kettle of fish. The obvious comparison would be something like the Workers' Compensation Board where people hardly ever get adequate compensation for what has happened to them. I think there are some such comparisons there.

I want to say, too, that this committee has chased around for a number of years the wonderful process by which people get appointed to various agencies, although we have recommended on several occasions now that a more formal process be struck, that there be some process whereby the public at large could express an interest in something like the Criminal Injuries Compensation Board, make an application to the Legislature or the cabinet or the Premier (Mr. Davis) or the Lieutenant Governor in Council, or however it might be done, that some sensible, logical, rational format be struck for appointing people to agencies like yours.

The response to that particular recommendation, I must say, has been rather minimal. It is a striking fact that when you go over the number of agencies that are out there, all functioning in different ways, we do see a similar kind of folk coming before this committee. We do see a similar response, that they are competent, intelligent people, working very hard and doing a good job. Without denying that for a moment, I think there is still a good measure of truth to be taken in our previous recommendations about how people are appointed to various agencies and for what terms and a little more accountability be put in the process. That is not really your fault, but that is something that we have discussed at some length.

I think one of the things that has been a major problem with this board is that it was originally struck, in the original legislation, if you read the discussions, to deal with essentially police officers who were injured in the line of duty, so to speak. It now has been expanded somewhat to bring in other people. I guess the original expansion was kind of police officers and others who might be assisting a police officer, so that if there was some great tragedy where a cop on a beat was being beaten up in the middle of the street and somebody went to help him and got a shot in the jaw, there was some mechanism to pay him some money. It seems, too, that the board has expanded that role somewhat, and the Legislature has played its part in expanding that.

I want to ask you, do you really think the board does what the name of the board says? Is it really a system of compensation for victims of crime?

Mr. Grossman: I do not understand the question. Obviously, it is.

Mr. Breaugh: Does it provide adequate compensation for people who are victims of crime?

Mr. Grossman: That is again a matter of judgement. It compensates them. If you are talking about adequate compensation, I think I touched on this earlier, Mr. Breaugh. It would be nice to be able to give some of those people more money. Certainly we have not kept with inflation; there is no question of that. I do not suppose anybody is adequately compensated in a situation of that nature anyway; because of some of the horrible effects of some of those horrible crimes, you would never be able to compensate them. In private litigation they try to do that, particularly in the United States, by giving them millions of dollars. How do you compensate somebody really for the loss of an arm or the loss of an eye? You can give them all the money in the world and, in my view, it would not compensate them adequately, anyway.

Mr. Breaugh: You have expressed this morning in answering other members' questions the matter of budget and the allocation of funds and that if you went over your limits or if you went to maximum awards on a consistent basis, you would soon be out of money, and then there would be a problem for the Legislature to vote you more funds. Part of that approach in the staff research on this--they go into this in some detail--is this has traditionally been a view held by the board, that first the Legislature sets a limit on the amount of money you can give out and then the board is very cognizant of that fact in making.

My problem with that--and I think I picked it up in your responses this morning--is that does have a tendency to cause the board to sit down, assess damages, even with the restrictions you have, but always very mindful that you are going to give this person his little piece of the pie, but that is it. The attempt is not made to provide compensation, but to provide an award of a certain amount of money. Is that a reasonably accurate portrayal of what you do?

11:30 a.m.

Mr. Grossman: It is really not the budget that sets that; it is really the maximums. If you look at \$15,000 as a maximum, naturally you look at all other kinds of injuries that would not attract the same kind of a maximum. I mentioned different kinds of injuries. If a person who is a paraplegic for life gets \$15,000, what do you do for a person who has lost five fingers? That was the example I used before.

Ordinarily, if you were in private litigation or if you had unlimited funds and you had no maximum, I should say, you would pay that person \$15,000, if that was your maximum, if you were not paying the same maximum to somebody who was a paraplegic, and I suggested that must have some impact on members of the board which is hearing the case. If you are cognizant of the fact the maximum is \$15,000, five fingers should not attract \$15,000; it should attract something less, unless you are talking of somebody who is a pianist or something.

Mr. Breaugh: So one of the areas the committee might take a look at in preparing its recommendations for the Legislature is to look at those maximums and the effect they have on the awards. It seems to me that is a fairly logical approach for us to take when we are reviewing it.

a couple of other things struck me in looking over the staff report here. Under this act no person is entitled to compensation as a matter of legal right, and that again puts a bit of a different perspective on things. I take it the board sees your awards and the hearings as something which is a bit of a privilege, not a right, for a citizen who is injured in the course of a crime?

Mr. Grossman: The government decided that.

Mr. Breaugh: Yes.

Mr. Grossman: If you will go back into Hansard, the Attorney General, when he was bringing in this act, made the statement that they were ex gratia payments. As a matter of fact, we had a case which went to the Supreme Court, to the Court of Appeal, five years ago, in which he made that point. He stated:

"It should be emphasized that this is not an instance where the board has a precise jurisdiction within which it may by its decision hold that an application is: (1) entitled to the rights granted under the statute, regulation or contract. The applicant has under this legislation no right to compensation, his right being limited to making an application therefor to the board."

I think that has been pretty well established.

Mr. Breaugh: One of my concerns in looking over the workings of the board over the years is just that. There is--I do not want to call it tokenism, but an inadequacy to the response. The problem is evident, and I think there is more and more support for attempting to deal with victims of crime in a more substantive way. But I think one of my feelings about the board has always been that the purpose of this board is to be able to say there is a board, not necessarily to deal with the problem, but there is a group of distinguished people who sit down and listen to victims of crimes and awards are made. There is a clear attempt made to ensure, and even in the legislation this is pretty clearly pointed out, "This is not your right to appear before this board. You can do that. The board is not there to provide you with compensation for a problem; the board is there to make an award." I am not sure that is tokenism, but it is close enough to it to make me uncomfortable. That is one of my problems.

Mr. Grossman: I am sorry, Mr. Breaugh, I do not follow that point. Everybody is entitled to make an application. If the application is reviewed and if the applicant is denied--incidentally, I should tell you that even the limitation period, which is one year, is by and large ignored by this board. We have applications for extension, maybe 100 or more a year. We have very many applications for extension well beyond, and by and large we accept all of them.

Mr. Breaugh: Do you think it is time to rethink the inclusion of police officers under this particular board? In other words, the original idea started with the police who would suffer injuries in the course of duty and it has expanded somewhat. Is it now time to rethink that process and say, "Okay, a police officer ought to be given award for injuries, but it ought not to be done

through this board, it ought to be done through the police association, the police college or some kind of expanded workers' compensation scheme because about a half or two thirds of the awards are to police officers?"

Mr. Grossman: Oh, no. They have a much smaller number than that. I think they have 90 to 100 a year.

Mr. Breaugh: It just seems to be more than that from the sample in here. It could be just a coincidence.

Mr. Grossman: About 90 or so a year, because I deal with most of those myself as a one-man board hearing it on documentary evidence.

Mr. Breaugh: Is it time to make that distinction that perhaps some other method of compensating police officers should be found?

Mr. Grossman: I think it might be worthy of consideration. I think it is something that you could look into. We heard 78 applications last year from police officers. Incidentally, they are the ones who bring down the average award because some of them are fairly (inaudible).

Mr. Breaugh: There is a memorandum of agreement with the federal government. Has that been renegotiated lately to provide funding for the board?

Mr. Grossman: No, it was only renegotiated a year or so ago when it was made--what is the the date on that?

Interjection: It is renewed every three years, I believe.

Mr. Grossman: It was renegotiated in 1978 when they increased the per capita from five cents per capita to 10 cents per capita, per head of population. We now get 10 cents per head of population rather than five cents, but according to the act, we get no more than half of what we award. Actually, we do not get any. We get 10 cents, which would be about \$870,000.

Mr. Breaugh: If there is a renewed interest coming out of something, say, the task force, one would anticipate that memorandum would have to be renegotiated and substantially larger amounts awarded. Would that not be your inclination?

Mr. Grossman: If we added it, that would change the maximums. It should be, but whether they would agree to it is another matter. We are now paying out considerably more than they are sharing. This year it will be about \$3 million, I guess. The federal share of that would be, I presume, somewhere around \$900,000. We are paying about a third, so unless they are prepared to change the formula itself, we would not get any more from them. They really outline the kinds of act which should be covered.

Mr. Breaugh: One of things which is not really considered--perhaps it is considered by the board, but it does not

appear to be in reading the summaries--is that sometimes simple acts of violence have very long-range consequences, not dramatic murders, rapes and things of that nature.

I had a constituent who was walking out of a dance when somebody across the street threw a beer bottle up in the air. It came down and hit him in the eye and damaged his eye and broke his jaw. He has been under medical supervision now for the better part of a year. The court case is still not resolved, but it put him out of work and affects his future. There is really no compensation for that other than eventually he will probably be in to see you. If one goes over the precedents here, there is not going to be a great deal of money awarded in that regard. Are we prepared to take on those kinds of considerations?

Mr. Grossman: If the case is as you pointed out, that person would be eligible for compensation.

Mr. Breaugh: He would be eligible for compensation--

Mr. Grossman: That could be considered criminal negligence, not an accident.

Mr. Breaugh: Yes, but that person would be hard pressed to survive on the kind of awards that you have made.

Mr. Grossman: Of course he would. With the maximum, if he cannot survive on that, then I suppose he would have to go to some other social agency.

Mr. Breaugh: The immediate difficulty one gets into when you talk about victims of crime is that it is not hard to accept, as this province has and across Canada they have, this kind of compensation board where there is a relatively limited award that is made and the purpose is to acknowledge that we should do something for that person.

11:40 a.m.

Mr. Grossman: All you have to do is raise the maximum.

Mr. Breaugh: You also have to change a few other things as well, because you get into the ramifications of this. The attitude I see coming from the board now is that there is an attempt made to provide an award for the physical damages, and that is expanded somewhat under certain circumstances, but the board remains shying away from other damages about loss of income on a long term and ramifications to other members of the family.

Mr. Grossman: We take into consideration loss of income. If that person was earning more than \$500 a month, we will grant him \$500 a month.

Mr. Breaugh: I understand that. But the point I am trying to make is that there is often a good deal more than is being acknowledged. If we move to expand that good deal more, we are talking rather dramatic increases in the budget of your board and rather long-term consequences of a really serious financial

nature. Are we prepared--I am, for example, as one member of the Legislature--to accept all of that? How does your board feel about that? Do they feel we should be doing much more for these people than we are doing?

Mr. Grossman: You mean aside from monetary compensation?

Mr. Breaugh: Yes.

Mr. Grossman: We could not do it now. With the operation and the staff we have, it would be impossible to do anything more than we are doing. The victims' services organizations which have sprung up are trying to do that. They are doing a great job. That is going to expand greatly, both qualitatively and quantitatively. They are providing services we do not provide. The police will concern themselves with what is happening to the victim. Social agencies are involved. That and the one in Kitchener are, I think, the forerunners of what is going to be a great expanded service in the province and in the country, as a matter of fact.

I think the other service agencies which are geared for that should be doing that really. If we expand our work to include a lot of that, we are going to create a lot of duplication, I think. But if that is what you want us to do, as long as you provide us with the staff and the money we are prepared to do it.

Mr. Breaugh: The reason I raised it was that there was a little paragraph in the research report on that which I just want to test for you to see how accurate it is, stating that: "For example, the board does not as a general rule compensate an applicant for pain and suffering if the applicant did not actually witness the incident. The act, as presently worded, does not prohibit compensation in these circumstances. However, the board feels that were it to award compensation in all these circumstances, the amount of the awards would rise dramatically, perhaps astronomically, leaving very little for other awards."

Mr. Grossman: Who said that?

Mr. Breaugh: That is just from our research that was prepared for us. I must say before you start, that would be my reading of the situation as well.

Mr. Grossman: What we are talking about there, I think, is mental and nervous shock, really. That is the most difficult thing this board deals with. Mental and nervous shock is claimed by some, particularly some claimants who have had a loved one murdered. Some of them will argue that the very grief and sorrow is mental and nervous shock. But that has wide-ranging implications aside from just the grief and sorrow.

It is not a question of--the money is a question; we just would not have it. But before somebody decides they will provide money for it, I think we had better study very thoroughly what sort of qualifications we are talking about. What they are really talking about is compensation for bereavement. That is what I mean about having wide implications.

Should we be paying compensation to people for bereavement? The board would be glad to do that if that is the way you read the act. The act says "mental and nervous shock." The way we take it is, we get a psychiatric report; if the psychiatric report satisfies the board hearing the case, then we will provide compensation.

Mr. Breaugh: In general, I think one of my problems with the workings of the board--and it is not your fault, because it is in the legislation, but let me put it succinctly--in my view your board does, in a limited way, a good job at compensating somebody for an injury to a hand or something like that.

As long as it is nice and clear-cut, there is an attempt made to assess how much that is worth, an award is made and that is it. So it is cut and dried. It is, relatively speaking, a relatively clean process. If you expand that into other areas such as the one we were just talking about, it gets very complicated in a hurry.

Mr. Grossman: But it is expanded to that. It is expanded to mental and nervous shock. We pay a great deal of money for mental and nervous shock, to the maximum. But the difficulty that arises, as you can appreciate, and as I was mentioning a moment ago, is what is mental and nervous shock?

To some people, as I say, just having had that thing happen in their family is mental and nervous shock. The board takes the view that is not mental and nervous shock in accordance with the legislation. We ask for reports from psychiatrists and, if they tell us this is an ongoing thing caused by that particular crime, then it is mental and nervous shock.

I hate to say it--how do you tell somebody who has lost a loved one that is not mental and nervous shock, it is grief and sorrow? It is very difficult to tell them there is a difference. But there is a difference. As a matter of fact, the first chairman of this board, Chief Judge Colin Bennett, prophesied quite prophetically that there was going to be a lot of difficulty in this from the standpoint of the board, but he said nevertheless you will have to deal with it on that basis: is it mental or nervous shock or is it grief and sorrow?

Mr. Breaugh: The other area I wanted to pursue with you a bit, and you touched on it on a couple of occasions this morning, was about publications that you have put out on the way you communicate with police officers, hospitals, and things of that nature. It confirms one of my problems with the board.

In many ways you have good information available, but the mechanism to put it out to the public seems to be missing. You do not have a communications department of your own. You are dependent on other ministries to do that. The reason, as you stated this morning for not doing that, is administrative costs.

Mr. Grossman: I did not say that was the reason, sir. I said that was a situation that would exist if we were to take it over. I said I presumed that was one of the reasons because I have

not been told that at all. They have a communications branch with staff and, presumably, they figure they can do that. That is all right with us. We are a little unhappy because we would rather handle it ourselves.

Mr. Breaugh: Again we get back to the point where you can say that we do try to communicate with the public but you do not really have a mechanism of your own to do that. That appears to me to be part and parcel of the problem.

Mr. Grossman: With great respect, Mr. Breaugh, we have put ads in the paper. You have seen them. There is one currently. That has been done two or three times within my term of office. That has gone to the ethnic and the weekly press across the province. They really do not produce a great deal.

The only way you are going to saturate the province with the kind of information that is required, which is what you would have to do in every instance except welfare, and everybody knows the existence of that and unemployment insurance, is to be constantly putting advertisements in the press, almost on a weekly basis, because people read it and apparently forget about it because it is not them they are talking about until it happens to them, of course.

I suppose you could spend as much as we spend on our whole budget. Whether that is a good reason not to do it, I do not know, but I suppose every agency, every board and every ministry could be doing the same thing about their programs. The papers would have nothing but government ads in them.

Mr. J. A. Taylor: Mr. Chairman, might I ask when we are going to rise for lunch and what time we resume sitting this afternoon? I do not know how many more you have on your list, but it might be helpful to some of us.

Mr. Chairman: I have Mr. Cassidy after Mr. Breaugh. Mr. Cassidy asked to be placed on the list again. Then I have Mr. McLean and yourself.

Mr. J. A. Taylor: I was asking you how long you plan to go on before we broke for lunch, that was all, and what time we plan to come back. Knowing the numbers on the list, in terms of my interest, I would proceed accordingly.

11:50 a.m.

Mr. Chairman: We have Mr. Cassidy. Mr. McLean is not here; so as soon as Mr. Breaugh is through, Mr. Cassidy, I assume, would be in the next few minutes. I would not anticipate coming back after lunch.

Mr. J. A. Taylor: I see.

Mr. Conway: There is a certain hopefulness about the chairman--

Mr. J. A. Taylor: I am sorry to interrupt. We were approaching the noon hour; so I thought it might be appropriate to ask that at this stage.

Interjections.

Mr. Chairman: I'm sorry. You were in the midst of your answer.

Mr. Grossman: No, I think I had completed. I hope you will not have to come back this afternoon. We are on the eve of a high holy day. This is the day they are going to write my name in the book or otherwise, and I would not want to be away from the service.

Mr. Breaugh: We will try to ensure that that does not happen.

Mr. Cassidy: Not the eternal book, I hope--the temporal one.

Mr. Grossman: That is the eternal one. Death is pretty eternal.

Mr. Conway: But the line goes on.

Mr. Breaugh: Would you be contemplating some kind of public relations program, like the Workers' Compensation Board?

Mr. Grossman: What public relations program do they have?

Mr. Breaugh: The Workers' Compensation Board spends a good deal of time, money and effort to convince the people of Ontario that the board is there, works well and is a great thing. It runs television ads, publishes brochures and really does go on--

Mr. Grossman: I would like to see more done. Let me put it to you this way, and I would like to get this on the record, if you do not mind. I used to make a lot more public speeches. Quite frankly, the last couple of years we have been overloaded with work. I am at that office all day, and the paperwork has become enormous. We need more staff. If we had more staff, I could spend more time as I did in the earlier years.

As a matter of fact, even when I was speaking, there was very little the media would take off us. I suppose it would be a great surprise to you if I--it will take me just 10 seconds--quote from the addresses I was giving in the late 1970s. I would finish up every one of my comments with the following statement, none of which the media paid any attention to, because I guess I was not calling anybody:

"I hope that as a result of this short résumé you now have at least a fairly reasonable picture of the operations of the board, that you are satisfied your tax money is being used for a worthy purpose and that I will have recruited you to the support of an ever-expanding membership in that movement known as victimology, a movement that is growing by leaps and bounds and which is dedicated to the proposition that more attention and consideration be given to that group in our society which has been forgotten for too long, the victim of crime."

It will need a constant kind of public relations, as you are talking about. I would do this if I had more time, which is what I really should be doing with a very large portion of my time. The work of the board has become so large.

I do not want to apologize for keeping the costs down. In anticipation of such a question I have here--and I will leave it with you--the average cost per case in constant dollars, which is the only real measure; it has gone down from the day I came into the board from \$686 to \$389.

Mr. Cassidy: That is for the administration. Is that right?

Mr. Grossman: Yes.

Mr. Cassidy: In constant dollars?

Mr. Grossman: No. It is all administration, including the members of the board.

Mr. Cassidy: That is not in inflationary types of dollars; that means in dollars?

Mr. Grossman: In constant dollars. It does not take into consideration salaries, which have increased, or any things of that nature, which really is the only way to examine the situation.

Mr. Epp: Unless it is administration--

Interjections.

Mr. Breaugh: I would just like to conclude by saying that from my perspective I think this is an area that, for whatever reason, has been woefully neglected by the public and governments at all levels. When the committee does sit down to write recommendations on it, I am going to urge them not just to put more money into the kitty--that is a part of the problem--but also to look at other considerations that are not taken into account now.

I think public awareness is part of the problem, but I am not advocating yet another great advertising program for an agency of the government of Ontario. I think there are ways that can be cost-effective and will make the public aware that this board does exist, that you will provide more adequate compensation than we have been able to do so far; and that, as you said earlier, is not all your fault.

But I do think victims of crimes are getting a dirty deal, and have been for a long time, and I want to do whatever I can to see that there is some fairness put into that and that when the regulations are written, if we choose to go that route, they will provide adequate compensation for people who are often just plain forgotten. I think that is a shame.

Mr. Cassidy: I have already had one go; so I will try to be fairly brief. I would like to ask first about the distribution

of awards. What proportion of your awards was at the maximum in the most recent year for which you have figures, what proportion was between \$10,000 and \$15,000 and what proportions were in the other ranges?

Mr. Grossman: For the year 1979 to 1980--I think that is the last figure we have, and we cut them down here--the maximum awards were 12.

Mr. Cassidy: What proportion was between \$10,000 and \$15,000?

Mr. Grossman: There were six between \$10,000 and \$15,000. There were three for \$7,500, which means that in those instances there was a monthly and a lump sum as well. When you see the figure \$7,500, it means we awarded a monthly income as well. That's the story.

Mr. Cassidy: I see. You do not publish that distribution in your report?

Mr. Grossman: I do not know. I do not think so.

Mr. Cassidy: No, you do not. May I suggest that you do? It would be very helpful in understanding your work.

The second thing is that I have not noticed that you seem to have any cases that involve compensation to victims of wife beating. Is there a policy about that?

Mr. Grossman: They would probably come under assault and battery. Of course we pay that; if it is assault and battery, we have to.

Mr. Cassidy: How many do you have?

Mr. Grossman: That was another thing we should have done, I suppose. We are looking forward to computerizing some of these things so they can be programmed in immediately and they will come up, because it is always a question of what the charge was. If the charge was assault and battery, sometimes it will be under another heading. I do not suppose there is a law precisely called "wife beating."

It is very difficult to accumulate them in the way we would like to, but we are moving towards that. But the answer is that we do pay.

Mr. Breugh: Excuse me. Part of that problem would be the fact that criminal charges are not always laid. For example, in domestic disputes the more common thing is to break up the fight, separate the participants and not lay charges. That would prevent those people, in the main, from getting to something like the injuries board.

Mr. Grossman: That's right.

Mr. Cassidy: My third question is, is it your impression that people take advantage of the service offered by the Criminal

Injuries Compensation Board; that, relatively speaking, you are reasonably accessible to people from across the province?

Mr. Grossman: There are two questions there. Are we reasonably accessible?

Mr. Cassidy: Yes.

Mr. Grossman: Of course we are accessible. Why wouldn't we be?

Mr. Cassidy: Do you feel that reasonable use then is made of your services by people across the province?

Mr. Grossman: I think there are those who are aware of the service and want to make an application. There are, no doubt, many crimes committed, many victims who do not want to bother going through the process or who do not want to face up to their offenders. We have that quite often, even with those who come to the attention of the board. And of course some of them have never heard of it.

Mr. Cassidy: Do you think people differ in different parts of the province in how they feel about whether to press a claim for compensation or not?

Mr. Grossman: I have no background on that at all. I would not know.

Mr. Cassidy: I see. The reason I ask is that I have looked at the distribution of where the applications have come from, which is published in the most recent report, and it becomes pretty clear here that you are basically an agency serving Metropolitan Toronto and southern Ontario and that, particularly when you get to the eastern part of the province, which I know, there is a far lower takeup, a far lower rate of applications relative to the population and, I suspect, relative to the incidence of crime. This suggests to me that it must be because people do not know of your existence, are not aware of the possibility of getting compensation as victims.

Since these figures are published every year and are probably not much different year after year, I wonder whether the Criminal Injuries Compensation Board has analysed those figures and seized on it as a problem, and what you have done about it?

12 noon

Mr. Grossman: It is a good idea, although I think maybe it has something to do with the nature of the community. It may be that in eastern Ontario there is not as much crime per capita. There are some communities that have a larger amount of crime per capita population.

Mr. Cassidy: You have summer students and people like that who do this research for you from time to time. Have you, in fact, posed that question and sought answers to it?

Mr. Grossman: I do not think summer students would be able to do that. I think it is a good idea. Certainly if we have time for it, that is something to take into consideration.

Mr. Cassidy: But in the seven or eight years that you have been chairman that has not been the case?

Mr. Grossman: Oh, but there are a lot of things we have done.

Mr. Cassidy: Let me just point out to you, Mr. Grossman, that last year in Metropolitan Toronto you had 525 applications. That was 40 per cent of the total number of applications that came before the board.

Mr. Grossman: Do you not think that would be about the percentage of the crimes of violence in a metropolitan city as against--

Mr. Cassidy: I do not know. I think Metropolitan Toronto is 23 per cent of the population in the province, and it accounts for 40 per cent of the applications. There are certainly vast areas of Metropolitan Toronto that are pretty peaceful in terms of crime. The crimes described in here, a lot of them are bar-room brawls and that kind of thing, which could occur almost anywhere in the province.

When I look at the situation up in Ottawa, Ottawa has six per cent of the population of the province and only 3.5 per cent of the applications. When I look at my friend Sean Conway's area, from what I can gather, the only application that came from his area came from Renfrew. I am not sure if White Lake is in your riding, Sean?

Mr. Conway: Regrettably not.

Mr. Cassidy: Only one application. Either he is particularly successful in imposing peace, order and good government or else people are simply not aware of the fact that you exist.

Mr. Grossman: Should we carry out a campaign in that area?

Mr. Cassidy: What I have heard you say is: "We are not getting out and doing the PR the way we used. We are not aware of the fact that our services are unequally distributed across the province. We do not know what the incidence of crime is across the province, to measure whether there are patterns in terms of whether people who are victims uniformly come to us." A number of other things you have told us have been good ideas.

In other words, what you are doing is basically saying, "Thank you very much, members of the Legislature." In the course of a day, without a hell of a lot of prior work, we are coming up with questions that your board should have been asking a long time ago.

Mr. Grossman: With great respect, Mr. Cassidy, you have not lost your ability for hyperbole.

Mr. Cassidy: Having said that, Mr. Grossman, I would appreciate an answer to the question.

Mr. Grossman: An answer to what question? I have told you we do not do any research in that respect. I have told you there are a lot of things we would like to do. The question, I suppose, is cost-benefit. Do you want us to do it? Do you want to lead a buildup of staff? I have tried to keep the empire from growing too large. We find now that because of the number of applications, the kinds of applications, the lawyers who are becoming involved, we are building up. Mr. Giuffre came in for that precise purpose, because he is an expert at this sort of thing.

Mr. Cassidy: This is a general question with relation to agencies, boards and commissions. Fifteen years ago people said: "We have to do something about victims of crime. It is not fair." So we set up an agency because it is an area we wanted to do something about and we seem to be doing something about.

The problem is that once the agency is created we say to ourselves--because you know the situation around here; there are a lot of concerns that the government and members have--"We have dealt with that. We have a group of people and have asked them to pay particular regard to the situation of victims of crime."

The problem is that the people who are charged with doing that job do not do a decent job. Perhaps that was the intention of the government. They wanted to put a nice little blanket over it and if anybody raised questions about victims of crime, say: "Tut, tut, we have it under control." Maybe that was the intention and maybe you are an accomplice in those intentions.

Mr. Grossman: Do you really think I would be satisfied with that?

Mr. Cassidy: I do not know, Mr. Grossman. I have to judge by the results.

Mr. Grossman: In case anyone leaves with the impression that the public is completely in the dark on what we are doing, take a look at the past five years. The number of applications that were under investigation has gone up by 33.3 per cent. The number of applications heard five years ago was 713 and we now have 908, which is a lot of hearings for that sort of thing. The volume has increased tremendously. We have been coping with that. We are doing what we can. We have made improvements and we continue to make improvements. To suggest that we do not care about--

Mr. Cassidy: I have some questions about that. I would just like to come back to the question, finally, in terms of how the devil you judge. For example, I have the information with respect to rape and sexual assault. It appears that if a man is sexually assaulted, that is something your board considers to be much more serious than if a woman is sexually assaulted.

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Mr. Grossman: Where would you get that from?

Mr. Cassidy: Out of the back of your most recent report, where the highest or second highest award was for a 26-year-old man who was sexually assaulted and was awarded \$9,786.

But if you go down the list, a 23-year-old woman was awarded \$1,500; a 20-year-old salesperson, female presumably, was awarded \$1,500 for rape; another 20-year-old woman, \$2,500 for rape; a 21-year-old student, \$600 for rape; a 21-year-old woman, \$7,500 for rape. But then a 17-year-old, rape and assault, was awarded \$3,000; a 17-year-old student, \$4,000; and a 19-year-old student, raped and robbed, \$2,500.

There is no rhyme or reason to that at all, Mr. Grossman.

Mr. Grossman: Mr. Chairman, I mentioned previously that I think it is most unfair to the work of our board and its members to read from the summaries and give the impression that we are dealing unevenly with all of these people, unless you see the file, see the reasoning and see what reason there was for the board to take the view that it did and make the award it did. That is all I can say about it.

Mr. Cassidy: Mr. Grossman, I think it is correct, and I commend you for the fact that you live up to the requirements of the legislation and do publish your summaries. It is one way by which we in the Legislature can gain some perception of the work you do. Clearly, even though most of your hearings are held in public, we cannot want nor would we want all of the details. We would be swamped in detail. But I think we can make some judgements from this.

Looking at other cases, somebody got shot in the buttocks at a party and got \$2,000 and someone else was struck and, as a consequence of being struck, suffered chronic anxiety, neuroses and has been unable to work since. One person is unable to work since the incident took place and he gets \$2,000 in the same way as somebody who got shot in the buttocks.

There is a fellow who was trying to stop a theft and he suffered a lot of injuries. Let us see if I can find it here. He had broken ribs, a broken shoulder and a number of things like that, jaw fractured, shoulders, ribs, teeth, but no permanent damage--a 27-year-old. The award there was \$7,500, which may well be an appropriate award. But then, at the same time, someone who was punched and kicked in the head, suffered brain damage and has been unable to speak or write since, got an award of \$7,000.

Mr. Grossman: As you say, that may be inappropriate. I do not know.

Mr. Cassidy: It may be appropriate, but it does seem to me--

Mr. Grossman: Why do you not ask me to go into those files and give you the reasoning that the panel hearing the case used for that purpose?

Mr. J. A. Taylor: Mr. Chairman, on a point of order: I do not like to be critical, but with respect, Mr. Cassidy went into this same area about two hours ago. Now we are getting a recycling of it. I had asked that I wanted to be heard, my name is on your list, and my colleague Mr. McLean, tired of waiting, has gone now. With respect to your chairmanship, members who wish to be heard should be heard in advance of a second round by other members. I put that to you.

What time did you propose for the committee to rise? As you know, we started an hour early, presumably with the impression that we would rise by 12 noon. I suppose it would be 1:10 p.m. if we had started at our normal time. Do you propose to go this afternoon or do you not? If not, are you going to have a continuation of these hearings? What is your plan? How long is Mr. Cassidy going to go on with his second line of questioning?

I just put that to you, and I think we are entitled to know, because some of us have commitments in our ridings this evening, have work to do in our offices and have to get to our ridings. As well, there is Mr. Grossman's problem in terms of--it is not a problem, but he has a commitment, as I understood, which we were trying to accommodate by sitting an hour earlier this morning.

Mr. Chairman: Mr. Taylor, first, when Mr. Cassidy asked to go back on the list for the second time, there was no one after him; he was the last speaker.

Mr. J. A. Taylor: Mr. Chairman, with respect, your eye is not as good for members of your own party as it is for members of the opposition parties. When I say that, I am not trying to be critical, but I want you to know that some of us like to participate in these proceedings even though we are members of the government party.

Mr. Chairman: Mr. Edighoffer's name is also on there following those of McLean and Taylor. I am entirely in the committee's hands as to how quickly we end or whether we end it at this point and carry on on Tuesday.

Mr. Cassidy: Mr. Chairman, I would be quite happy to finish in approximately 45 or 60 seconds. At least, that would not contribute to the problem. I was, in fact, near the end. I would have finished by now if Mr. Taylor had not intervened.

Mr. Chairman: Does the committee wish to carry on at this point with Mr. Cassidy, Mr. Taylor and Mr. Edighoffer finishing today or to stop at this point and go over until Tuesday? What is the committee's wish?

Mr. J. A. Taylor: If Mr. Cassidy has captured the ecumenical spirit and is completing his remarks, then I am interested in pursuing the area of income, support and maintenance, that whole field where, as I perceive it, the board is manifesting in a material way the social conscience of a civilized society. We get into those monetary payments, the type of thing that has been questioned in terms of the equity of one type of case as opposed to another and how that interacts with the

existing income-maintenance programs, for example, through the Ministry of Community and Social Services, how one might cancel out the other and the equity and conscience of that and the cancellation maybe of the intent to some degree of the board itself. There are a number of programs that interact, in my estimation. I was interested in pursuing that, but presumably I can pursue that on my own, Mr. Chairman, and not take the further time of the committee.

Some of that was touched upon earlier this morning and I had, by way of a supplementary question, introduced the subject. I would be prepared again, in the same spirit that I have perceived Mr. Cassidy manifesting, not to take the further time of the committee.

Mr. Cassidy: I will make a very brief final comment. Mr. Grossman, I do think that you have been much too cautious in testing the limits of your existing \$15,000 limit on your awards. I think a lot of the reason for what are perceived as real inequities, in terms of different awards seeming to be incommensurate in relation to the actual events, is related to the fact that the maximum itself is too low.

I would give a final example. Back in 1976, according to your report on that, a janitor who lost his eye and some hearing as a consequence of a glass being thrown at him in a bar was awarded \$7,500. In the most recent year, a punch press operator who lost the sight of an eye because of assault was awarded \$5,000, which in 1976 dollars would be worth about \$3,000. In other words, the value of an eye has dropped by half over the course of the last six or seven years. That kind of thing really disturbs me, and it seems to me we can do better for victims of crime in Ontario.

Mr. Edighoffer: There are many questions I had and some of them have been answered, but I do not think I have heard this morning in your introductory remarks anything about the time taken from when you get the application until the decision is made and payments are made. What length of time does that take?

Mr. Grossman: They run into all periods of time. They could run from a short few months to as much as a year and a half to two years.

Mr. Edighoffer: The reason I ask that is I was looking at section 14 in the act. I do not see anything in your report about payments that are made under section 14 where the applicant is in actual financial need and it appears to the board that it will probably award compensation to the applicant. Are there any times when you have used that section?

Mr. Grossman: Yes, we have.

Mr. Edighoffer: How many times?

Mr. Grossman: I do not suppose it occurs more than two or three times a year.

Interjection.

Mr. Grossman: Yes, it is in our annual report. The last one showed that we had six last year; four the previous year; eight the year before that; in other words about half a dozen.

Mr. Edighoffer: The only other question I want to ask is, did the applicants receive approval or was the money just lost?

Mr. Grossman: I do not recall any that did not get awards. I think they all got awards. It has to be a pretty open and shut case before we would make an interim award. It is only that all the documentation has not been in to provide us sufficiently for a viva voce hearing. Sometimes that is pretty clear.

Mr. Edighoffer: Okay, that is fine.

Mr. Chairman: Mr. Taylor, did you want to add anything more this morning.

Mr. J. A. Taylor: No, I do not think so. As I indicated, there are some areas that are going to take some research. I am content to let the matter rest.

Mr. Chairman: Fine. Thank you very much, gentlemen and lady, for appearing before us and being very co-operative.

Mr. Grossman: It is my honour, sir. It is always an honour to appear before the Legislature. It means they put some importance on your work.

Mr. Chairman: Thank you very much. We are adjourned until 10 o'clock Tuesday morning in room 151, the Amethyst Room.

The committee adjourned at 12:17 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS
AGENCIES, BOARDS AND COMMISSIONS
THURSDAY, SEPTEMBER 22, 1983



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Taylor, J. A. (Prince Edward-Lennox PC)
Breaugh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Kolyn, A. (Lakeshore PC) for Mr. Rotenberg

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

From the Ministry of Municipal Affairs and Housing:

Donaldson, B., Senior Policy Adviser, Legislation Section,
Municipal Affairs

Fleming, E. M., Assistant Deputy Minister, Municipal Affairs

From the Ministry of the Attorney General:

Revell, D. L., Legislative Counsel

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, September 22, 1983

The committee met at 10:16 a.m. in room 151.

AGENCIES, BOARDS AND COMMISSIONS

Mr. Chairman: We will start. We will reconvene from yesterday.

Mr. McLean: The first one I would like to look at is the Funeral Services Review Board. Having dealt with funeral directors in the past and realizing the problems they seem to have when people are on welfare and setting their fees, I would like to look at that agency.

The second one I would like to look at is the Ontario Educational Services Corp. Because we have dealt with the universities, I would like to see how this ties in with what we have done while it is fresh in our minds.

The third is the Ontario Mental Health Foundation. I would like to see how it ties in with the mental health centres.

The fourth one I have is the Soldiers' Aid Commission. Really, what do they do? Is it viable? Is it something like the one that Hughie had a great love for, the wolf bounty, was it? Maybe we should look at that. It is something that has never been looked at.

Those are the four I would recommend.

Mr. Chairman: I looked through the long list also and I saw one under Health, called the Advisory Committee on Inborn Errors of Metabolism in Children. It just hit me: maybe it is in existence, maybe it has an actual purpose.

Mr. J. M. Johnson: Where did you find that one?

Mr. Chairman: It is under Health on page iv of the long list, the second one from the top. In my mind it is suspect with a name like that.

Mr. J. M. Johnson: Would there be such a thing as a sunset provision in there?

Mr. Chairman: No.

Mr. J. M. Johnson: Is there any possibility we could recommend that some of them fade into the sunset?

Mr. Chairman: It is possible. That is really what piqued my interest.

Mr. J. M. Johnson: Why do we not zero in on one and just set a precedent?

Mr. Epp: We did that.

Mr. J. M. Johnson: No. You tried to do that with the Wolf Damage Assessment Board.

Mr. Epp: No. We did that with the anti-pollution farm advisory board, or whatever it was.

Interjection.

Mr. Epp: We did that with one. We bit the bullet on that one, Jack.

Mr. McLean: No. We left it. It cost us only \$1,000 a year.

Mr. Epp: We could not have. We did not need that one, did we, John?

Mr. Eichmanis: The Farm Pollution Advisory Committee.

Mr. Epp: We left it? No. We sunsetted that one. Do you remember?

Mr. J. M. Johnson: Can we call them back? Then if we did not, let's do it.

Mr. Chairman: If they do not answer, we will know they have been sunsetted.

Mr. Epp: And remember, it was a provincial committee, and they were all within about three miles of each other. It was just a nice buddy system, and then they travelled to eastern Ontario on one occasion.

Mr. Eichmanis: No. We did not quite pull it on that one.

Mr. Epp: We did not pull the plug on that one? Oh, damn it! I would have pulled the plug. I must have been in a minority.

Mr. J. M. Johnson: Can you find one that we maybe can--

Mr. Epp: Remember? One member was dead in that committee, and they only found out about it six months later because they had not met or something? It's incredible.

Mr. Chairman: About the Soldiers' Aid Commission: The Department of Veterans Affairs certainly in my experience looks after veterans' affairs right from soup to nuts, absolutely everything: their dependants, the Veterans' Land Act, financial help and so on. I really wonder what the Soldiers' Aid Commission can have that the DVA and VLA do not look after.

I mentioned this metabolism one because the very name made me wonder whether it was important enough today to have an advisory committee.

Mr. Epp: I have several suggestions too, Mr. Chairman, that we could look at. The Council on Franco-Ontarian Affairs would be one. Another would be the IDEA Corp.

Mr. J. M. Johnson: Which one was that?

Mr. Epp: The Innovation Development for Employment Advancement Corp. It is on the long list.

Mr. Eichmanis: The only thing about the IDEA Corp. is that it has been in existence for such a short period of time that I am not sure you would want to look at it right at this point.

Mr. Epp: It is one we can take a look at and maybe we can pick up some ideas.

The Advisory Council on Equal Opportunity for Women.

Mr. Chairman: I noticed that one. Did it occur to you to wonder where it fits in with the Ontario Status of Women Council and the new minister?

Mr. Epp: Exactly. Another one that John has listed is the Ontario Human Rights Commission. The Ontario Waste Management Corp. is another one, and the Urban Transportation Development Corp. Then still a further one, the Apprenticeship and Tradesmen's Provincial Advisory Committee. So there are several there.

Mr. Chairman: Which you are tying in with manpower, which we just finished.

Mr. Epp: Yes.

Mr. Chairman: Does anybody else have any ideas on this?

Mr. Cassidy: I think this is difficult. I gather we are looking at both the short list and the long list. Is that right, Mr. Chairman?

Mr. Chairman: There is one thing I might point out. Although there is also a list of the ones we have done right from the first, I throw out to you the idea of not putting in anyone's mind that because they have been in these past reviews they are automatically excluded from review. Is it not possible to pitch in one that has already been reviewed so no precedents will be set that if you are hit in 1979 you will not be hit again for 20 years?

Mr. Cassidy: I have one suggestion. We are fishing to some extent. It may be worthwhile having John Eichmanis pursue some of these just enough so that we have a better idea of what the issues might be; then we can make a better decision about what to do in January. Some may well be obvious and not need that, but others may turn out to be three people who meet once a year and not really worth the committee spending more than a few minutes on if we are looking around.

As to areas to look at, I would be delighted to look at Minaki Lodge Resort Ltd. and Minaki Development Co. Ltd. It is an

area where there is an awful lot of uncertainty about what the devil is going on, and I think it might be an interesting exercise for this committee to look at them.

Mr. Chairman: It is in front of the courts right now. You know that. Not the thing itself but Minaki.

Mr. Cassidy: There has recently been a case brought by the former owner, I think, is it not?

Mr. Chairman: Yes.

Mr. Kolyn: That is what is before the courts, I think.

Mr. Cassidy: That is right, yes. I do not think that knocks out this particular thing, because we are not looking at what happened at the time the province bailed out the original mortgage; we are looking at what has happened subsequently to that and what is the present and future status of that crown corporation.

The Social Assistance Review Board is a body with a great deal of influence over people's lives because of the decisions it makes.

I am not sure about UTDC. I have a feeling that perhaps if they were to come before us in January they would simply say: "Wait and see. We are building in Vancouver. It is going to be great." I am not sure whether it would be premature to look at them now.

Then, elsewhere, the Police Complaints Board, the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Council on University Affairs, which is an example of a body that is put front and centre by the government when it agrees with its recommendations and totally ignored when it disagrees with them. I am not sure whether that might deserve some looking at.

We recently had legislation changing the status of The Ontario Share and Deposit Insurance Corp. That is a specific case that is fairly small, but I know that I have been involved with them fairly extensively this summer because of the grave uncertainties of the employees involved with jobs they feel are in jeopardy.

Mr. Chairman: The auditors?

Mr. Cassidy: Various staff people whose jobs they think are being removed. It is hard for them to get answers.

I marked the Alcoholism and Drug Addiction Research Foundation partly because, like the Ontario Cancer Treatment and Research Foundation, it does something we all favour but may have grown into a bit of a monster; that is, grown quite out of control of the government or the Legislature.

Mr. Chairman: That is one that was done on the first review.

Mr. Cassidy: Is that right?

Mr. Chairman: Yes. Would you suggest that be one to come back to? When would the first review have been? How many years back?

Mr. Cassidy: We have have six or seven reports--

Mr. Eichmanis: About 1979.

Mr. Cassidy: Addiction and drug research--drug addiction--alcoholism and drug in aid of--

Mr. Chairman: That could be one that is a bit of a flag or signal that they are not necessarily never to be reviewed again.

Mr. Cassidy: I raised the question with the cancer people about what they were doing about the major single growing cause of cancer, which is smoking. The same questions should certainly be raised with the Alcoholism and Drug Addiction Research Foundation, because they are very quiet in that area.

Interruption.

Mr. Chairman: Yes, sir. We will get more intelligence out of the Mancini family from here on.

Mr. Epp: Guess who is the substitute? I suggest that Joanne take a seat up here and Remo look after the children.

Mr. Cassidy: In view of this discussion, I would endorse the suggestion that we look at the Advisory Council on Equal Opportunity for Women. That is a long list, Mr. Chairman.

Mr. J. A. Taylor: You will not get their vote.

Mr. Cassidy: I do not know; they have another 15 years before they start to vote.

Mr. J. M. Johnson: I would like a shot at the Board of Parole.

Mr. Chairman: Yes. I marked that down as an interesting one.

Mr. J. M. Johnson: No. I do not have a conflict--

Mr. Chairman: No. I had that marked--

Mr. J. M. Johnson: The second one I would like to suggest is Boards of Management for Homes for the Aged and Rest Homes. If there is one closer to nursing homes, we will take a shot at it. I think it is an appropriate time to see whether we can get some information on what is being done for the aged population.

Mr. Chairman: Are you remembering that we decided we were going to go with the Crop Insurance Commission of Ontario the next time? That was one we sort of decided we were going to go with.

Mr. Watson: Which one are you talking about when you mentioned boards of management? Was that one you were talking about: Boards of Management for Homes for the Aged and Rest Homes?

Mr. J. M. Johnson: Yes. That is the one.

Mr. Watson: That is plural, right? It is not just one board. Boards of Management--

Interjection.

Mr. Watson: In unorganized territories in the north and so forth in the homes for the aged, do you have a Board of Management for Homes for the Aged?

Mr. Chairman: Where is that, Jack?

Mr. J. M. Johnson: It is the second one--

Mr. Watson: The second one under Community and Social Services.

Mr. Cassidy: In fact, it is a whole number, is it not, Andy?

Mr. Watson: That is what I am saying. I think that is not the board. In organized townships you have organized municipalities, and a home for the aged has it set down as to the members of council who are on the board of management in that home. In an unorganized area, the province appoints those boards. There would be many boards.

Interjection.

Mr. Watson: It is fine, but it is not a board. Every home for the aged has a board of management. In some areas, like southern Ontario, it is (inaudible), but in northern Ontario, having been there, there are some boards that come from municipalities that are organized and then there are provincial appointments to boards from unorganized municipalities or areas.

Mr. J. M. Johnson: Scratch that.

10:30 a.m.

Mr. Chairman: There was one that caught my eye, the Board of Visitors of Homewood Sanitarium, Guelph. Is there a board out there dealing with visitors and people getting per diems or a director? Where is that?

Interjections.

Mr. J. M. Johnson: Under what section?

Mr. Chairman: It is under Health, on page iv of the long list, about the middle of the page.

The name strikes me. I wonder if they are redundant. Is it relevant today, or has it been around since 1900 and simply stays on the books?

Mr. J. M. Johnson: Are you thinking in terms of sunseting?

Mr. Chairman: I am thinking of looking at the relevance of it today.

Mr. J. M. Johnson: Why don't we take a shot at that one? That might fulfil Herb's ambition.

Mr. Chairman: To sunset something? The Board of Visitors of Homewood Sanitarium, Guelph?

Interjections.

Mr. Epp: What we should do, with all respect, is maybe add a few more than five. We have a number of them. If we are going to take some minor ones, maybe we should fill in a few minor ones and take a few more days and do eight of them this time. In January and February we could accommodate about eight of them--

Interjection: Or over a period of--

Mr. Epp: Or perhaps do two of them in the morning, like that board of visitors one and the Soldiers' Aid Commission.

Interjection: Yes.

Mr. J. M. Johnson: Why don't we put that one down and see what it is?

Mr. Epp: Yes. Do some of the minor ones. If we were to take two weeks for this--to prepare our report would take a couple of days, but we could have delegations over a period of about eight days and prepare the report the other two days; then we would have it done.

There are so many boards, commissions and agencies, about 300, that it will take us almost a millennium to get through all of them. By that time, they'll have another 300. What we should do is speed up the process of hearing some of them.

I agree that some of them should probably be sunsetted. I don't want to make up my mind before I hear it. No one has ever heard of some of them, and here we are, about 12 members, and no one has ever heard about them until we picked up the list. They cannot be particularly meaningful.

Mr. Cassidy: It may well be the people in Guelph are aware of this board of visitors. It is unfortunate that when you get down to practicalities, sunseting seems to work most effectively in the bodies and agencies that are probably the least offensive. They may be doing a decent job in a very small area. For example, every hospital across the province will tend to have some type of board of governors or board of directors representative of the community. Most of them aren't listed here because even though the funding is provincial, they are nonprofit or municipal foundations.

In terms of effective running, there are institutions I am aware of which could do with some type of an advisory board which might be called a board of visitors. I am thinking the Rideau Regional Centre in Smiths Falls, for example, which is an institution for the retarded with more than 1,000 residents and 1,500 staff. The line of authority in terms of any public input into that institution is that an individual talks to his member, who talks to the minister, who talks to the deputy minister, and the line of authority then runs back to the director of the institution. There is no direct vehicle for local input apart from writing a letter to the director.

That is not in our purview directly, but I would be a bit wary about sunseting this just for the sake of being able to go back in an election campaign and say, "By God, we killed three agencies."

Mr. J. M. Johnson: After 40 years, it would be nice to sunset one.

Mr. Cassidy: That's your problem, not mine.

Mr. Chairman: About the visitors, I take it that is the consensus, to look at that Board of Visitors of Homewood Centre, Guelph, to get an idea of what boards of visitors are and so on.

Mr. J. M. Johnson: They are considered sunset unless they can prove otherwise.

Mr. Chairman, the Nursing Homes Review Board; why don't we have that one?

Mr. Chairman: Okay. We have three now. There is a consensus? The Nursing Homes Review Board?

Mr. J. M. Johnson: It is a very controversial issue at the present time. It is something I would like to become involved with.

Mr. Chairman: Okay.

Mr. Cassidy: In view of the concerns of our party, we would be happy to include that. I suspect we are going to get to a medium list and then we are going to have to distil it again. I think it should certainly get on to that list of--

Mr. Chairman: What I was trying to do is get our list done now. There seems to be a view in the room to add in some of these unusual ones to do more and to run through more quickly. So I am just trying to distil this down if I can get a consensus.

The Crop Insurance Commission of Ontario; I think we agreed last time we would take that. Right? Right. So that is a yes. The Nursing Homes Review Board is a yes.

Mr. J. M. Johnson: Mr. Chairman, is there any merit in slating each of them in for just half a day and then at that time maybe scheduling a full day later for the ones where we found we needed more time?

Mr. Chairman: Yes. I think John and Smirle, based upon the research and so on, will try to do that and make it less or more time.

Mr. Cassidy: Mr. Chairman, this long list is clearly from some document, because it is an index and there are page references. Perhaps Smirle or John could say what the references are to.

Mr. Eichmanis: The Premier's office puts out a list of all the agencies and it provides the telephone numbers and so on. It starts off with a list of all the agencies by ministry and then by alphabetical order.

Mr. Cassidy: Right.

Mr. Eichmanis: What we have done is taken that list, from the beginning of that book, of all the agencies by ministry. Further on in the book there is the title, again, under which act it falls and the name of the chairman or the executive officers.

Mr. Epp: Could we get a copy of that? It is public information, obviously.

Mr. Eichmanis: I would have to Xerox it.

Mr. Chairman: Smirle is saying it is maybe 100 pages or so.

Mr. Cassidy: I would like to see a copy, as well, please.

Mr. Epp: Maybe you could make one available to each party.

I know John is not particularly enthused about having the IDEA Corp., because it is new.

Mr. Eichmanis: Oh, no. I am just saying it is new.

Mr. Epp: But I would still like to very much have the IDEA Corp. I think it is new and it has gained a certain amount of notoriety in the past two or three years and we may pick up some ideas from it.

Mr. Chairman: Hugh snickers at that. The IDEA Corp.

Mr. Cassidy: I am not sure how we are dealing with this. I have one or two priorities too.

Mr. Epp: We have three so far. If we have about eight, that gives us--

Mr. Chairman: Okay. Let us start at the beginning and try to get a consensus on them.

Mr. Eichmanis: Okay. The Board of Funeral Services.

Mr. Epp: That is one that Al wanted. Sure.

Mr. Eichmanis: The Ontario Educational Services Corp.; Al McLean.

Mr. McLean: Which one?

Mr. Eichmanis: The Ontario Educational Services Corp.

Mr. McLean: I did not mention that one. I mentioned the Board of Funeral Services. Yes, the Ontario Educational Services Corp.

Mr. J. M. Johnson: What is that exactly?

Mr. Chairman: That is computers. That is the going into computers, is it not?

Mr. McLean: I would like to have seen how it tied in. When we do the universities, how does this tie in with the educational services?

Mr. Cassidy: I think it is actually selling educational services from Ontario to Saudi Arabia and places like that. I think that is their major function.

Mr. Chairman: Do you want John to run through the bunch that people have mentioned and have interest in just to refresh your memory before we go back to them one by one?

Mr. Cassidy: I have a change to make in one of them.

Mr. Eichmanis: Okay. The Board of Funeral Services, the Ontario Educational Services Corp., the Mental Health Foundation, the Soldiers' Aid Commission, the Council on Franco-Ontarian Affairs, the IDEA Corp., the Advisory Council on Equal Opportunity for Women, the Ontario Human Rights Commission, the Ontario Waste Management Corp., the apprenticeship advisory committee--I do not know what the full title of it is.

Minaki Lodge Corp., the Social Assistance Review Board, the Police Complaints Board, the Ontario Council on University Affairs, the Ontario Share and Deposit Insurance Corp., the Alcoholism and Drug Addiction Foundation, the Board of Parole, the Crop Insurance Commission of Ontario, the Board of Visitors of Homewood Sanitarium, Guelph, and the Nursing Homes Review Board.

10:40 a.m.

Mr. Chairman: Okay. We have agreed to four so far: the Crop Insurance Commission of Ontario, the Board of Visitors of Homewood Sanitarium, Guelph, the Nursing Homes Review Board and the Board of Funeral Services. What was next?

Mr. Cassidy: Which ones have we agreed to?

Clerk of the Committee: The Crop Insurance Commission of Ontario, the Board of Visitors of Homewood Sanitarium, Guelph, the Nursing Homes Review Board and the Board of Funeral Services.

Mr. Chairman: About four more: IDEA Corp.?

Mr. Kolyn: Ontario Educational Services Corp.

Mr. Chairman: IDEA Corp. first. Consensus, yes?

Mr. Cassidy: I am uneasy. I am not sure whether it is that urgent yet, because they got their executive director about only two or three months ago. They have been slow in getting going. I suspect that all they can do when they come in is to say, "We are getting some bright ideas but it is too soon to see anything that certain."

Mr. Epp: I kind of feel strongly about that and I think we should have it.

Mr. Chairman: Are we going to vote?

Mr. J. A. Taylor: Mr. Chairman, maybe you could clarify the committee's mandate in regard to the exercise so that we can better judge the--

Mr. Chairman: It is simply to review the operations of all ABCs. It is wide open.

Mr. J. A. Taylor: That is pretty broad. I understand that. While I have the very deepest respect for Herb Epp's judgement--he is just a tremendous person, with a magnificent mind--

Mr. Epp: It is a good thing I am not sensitive.

Mr. J. A. Taylor: No. I am sincere, Herb. I am just wondering, with this corporation being so new, whether the committee, exercising its mandate in the broadest sense, can really come forward with any positive recommendations. If the committee wants to know something about it, I can understand that, but I am thinking in terms of the next step, which might be recommendations. I just put that to you in terms of priorities of the committee, because there are so many of these agencies, boards and commissions that I know we would just love to get our teeth into.

Mr. Epp: Just in response to that, Mr. Chairman, I know that often you have groups here that we do not know very much about and we want to learn about them, but here is one that we have read a little more about and maybe we should explore it a little more openly, and that is why I put the idea forth.

Mr. Cassidy: Could we put the IDEA Corp. on the back burner until we see where we are at after another two or three?

Mr. Chairman: It does not seem to have a consensus. Next?

Mr. Eichmanis: Mr. Kolyn indicated there was an interest in the Ontario Educational Services Corp.

Mr. Kolyn: We have been having a lot of activity, such as Bette's recent bill on the costs of education. If we are

talking about giving them funds without really having any accountability from them, I think education is a good one to go into right now. But I am new on the committee; so I am easy.

Mr. Chairman: Does that strike everybody as all right, the Ontario Educational Services Corp.?

Mr. Cassidy: Yes. I am okay on that. I have a suggestion that was mentioned, the Council for Franco-Ontarian Education--I do not know who mentioned that; it was not me.

Mr. Eichmanis: No. Franco-Ontarian affairs, not the educational one. There is a French education committee, a separate education committee.

Mr. Cassidy: I wonder whether the Languages of Instruction Commission of Ontario may be more pertinent because of the fact that it has some powers. If we want to get into a French area, that may be a more appropriate one. I would be very interested in doing that as an alternative.

Mr. Chairman: I think we are dealing with the Ontario Educational Services Corp., and I do not think that has any connection with the Franco-Ontarian one, does it?

Mr. Cassidy: No. A strong interest has been expressed on the educational services one, and I have no particular objection.

Mr. Chairman: Okay. The Ontario Educational Services Corp. seems to have a consensus. What is next?

Mr. Epp: Did we get down to the Apprenticeship and Tradesmen's Provincial Advisory Committees?

Mr. Chairman: We were going down the list.

Mr. Eichmanis: The next one is the Ontario Mental Health Foundation.

Mr. Epp: Yes.

Mr. Eichmanis : Are you saying yes to everything?

Mr. Cassidy: Let's keep on the list and see if there are some things that have strong--

Mr. Chairman: Okay.

Mr. Eichmanis : Soldiers' Aid Commission.

Mr. Cassidy: I would be lukewarm about that, not because I'm not interested but because I think it has a lower priority.

Mr. Eichmanis : We have the Council for Franco-Ontarian Affairs. This is an advisory committee.

Mr. Epp: I think it is one that we should take a close look at because we've read a few things about it. They've been in the news from time to time. I don't know very much about it. I would like to learn a little more.

Mr. Cassidy: Mr. Chairman, on that one, I think it is an area the committee could very usefully be in. As I was saying earlier, it may be that the Languages of Instruction Commission of Ontario, as a body which has more powers to affect things than the council which is purely advisory, might be more appropriate. I would like to suggest that one in the Franco-Ontarian area.

Mr. Chairman: Where is that?

Mr. Cassidy: The languages of instruction commission is not on the list, but I am suggesting--

Mr. Chairman: Yes, it is on the long list.

Mr. Cassidy: Yes.

Mr. Chairman: Is that all right? How does the committee feel about the Languages of Instruction Commission of Ontario in lieu of the Franco-Ontarian council?

Mr. J. M. Johnson: I think not.

Mr. Epp: I prefer the former.

Mr. J. M. Johnson: With the controversy in Manitoba, I think we should sit this one out for a few months.

Interjection: Oh, no.

Mr. Chairman: Are you saying no to the Franco-Ontarian?

Mr. J. M. Johnson: Yes, I am saying no.

Mr. Cassidy: Are you saying no to anything in that area? That's a bit--

Mr. J. M. Johnson: No, no. I am simply saying there are other issues we can become involved with without getting into that argument at the present time.

Mr. Cassidy: I am putting this forward constructively. There is a problem which isn't Manitoba's problem; it is our problem in making the law apply. That is my reason for suggesting it. It may be this committee can shed some light and be of assistance in looking at that.

Mr. J. M. Johnson: Assistance.

Mr. Cassidy: Yes.

Mr. J. M. Johnson: I sometimes think that the reverse happens.

Mr. Cassidy: That may be. I just thought it would be useful perhaps. Normally the people on that commission, as in many commissions, don't have a forum or a platform where they can legitimately voice their concerns in a responsible way. You would agree, we don't want to get into the Manitoba situation. We have avoided that until now.

Mr. Epp: I don't think we will. If you think that by discussing a particular committee you are going to copy what they have in Manitoba, you are--

Mr. Cnairman: There doesn't seem to be a consensus on that one.

Mr. Cassidy: There is a consensus when it comes to the Council for Franco-Ontarian Affairs; is that right?

Mr. Chairman: No. It appears not. Franco-Ontarian education seems not to--

Mr. Cassidy: The original proposal was the Council for Franco-Ontarian Affairs, which is a different body.

Mr. Chairman: The Council for Franco-Ontarian Education. We've done--

Interjection: No, no.

Mr. Chairman: The Council for Franco-Ontarian Affairs. Where is that? Under Education?

Interjection: That's not the Council for Franco-Ontarian Affairs. It is under the short list, but it is under Intergovernmental Affairs.

Mr. Chairman: Oh, it is not under Education. Okay.

Mr. J. M. Johnson: Mr. Chairman, I need your guidance. There is one I would like to bring up, the Game and Fish Hearing Board. I am not sure that is an appropriate one. I am thinking in terms of commercial fishing versus sport fishing. What agency or board would that fall under?

Mr. Chairman: There is something--

Mr. J. M. Johnson: There is pressure that the commercial fishermen are taking out too many of the sport fish.

Interjection: Yes. That is probably under Natural Resources.

Mr. J. M. Johnson: I was wondering if the Game and Fish Hearing Board would be the one.

Mr. Chairman: Keep going.

Mr. J. M. Johnson: In Michigan, for example, it has pretty well bought their commercial fishermen.

Mr. Epp: Freshwater Fish Marketing Corp. or Game and Fish Hearing Board?

Mr. J. M. Johnson: Would that cover it?

Mr. Chairman: I don't know.

Mr. J. M. Johnson: Could you check it out?

Mr. Chairman: Yes.

Mr. J. M. Johnson: I am interested in the aspect of commercial fishing versus sport fishing.

Mr. J. A. Taylor: If I may volunteer an opinion, you may find that peripherally that board might--

Mr. J. M. Johnson: Freshwater Fish Marketing Corp. Why would we have fresh water--

Interjections.

Mr. Chairman: Order. Mr. Taylor.

10:50 a.m.

Mr. J. A. Taylor: That board will hear appeals from, for example, a refusal of the ministry to issue a commercial fishing licence. When you get into the reasons for refusing to hear, it may be peripherally because of the pressure on the species or quotas or competition with the sport fishing, and they may all be factors in not issuing a licence. I am volunteering that. I am not certain, but I am suggesting that it may be only peripherally that you touch upon the concern that Mr. Johnson has mentioned.

If you really want to get into it, I suppose you would have to deal with the ministry per se, as opposed to one of the boards to hear appeals from, say, refusal to issue a commercial fishing licence.

Mr. Chairman: So neither of those, the Game and Fish Hearing Board nor the Freshwater Fish Marketing Corp., seems to be what Jack is after.

Mr. J. M. Johnson: Could we have John check with either the Game and Fish Hearing Board or the one above it, the Freshwater Fish Marketing Corporation.

Mr. Eichmanis: We are all set to look at the Freshwater Fish Marketing Corp. at another time. I checked on that. Apparently the difficulty with that one is that it is really a federal agency to which the Ontario government appoints its share of members, so it is kind of an odd--

Interjection: It is not our jurisdiction really.

Mr. Eichmanis: Not our jurisdiction.

Mr. J. A. Taylor: I think the Game and Fish Hearing Board would be better in any event. I certainly would not discourage the committee--

Mr. Eicomanis: I will check on that and see exactly what their status is.

Mr. J. A. Taylor: It may not answer Mr. Johnson's concern, which is my concern, I may say, as well. I would certainly support Mr. Johnson in advocating that board.

Mr. Chairman: Is there a consensus? We cannot send John out to sort thumbnail sketch them and then come back. Can we sort of put that on then? Is there a consensus to put the Game and Fish Hearing Board on unless John finds it is somewhat irrelevant?

Mr. J. M. Johnson: Why do we not put them on, and if they are not relevant, we can--

Mr. Cassidy: Mr. Chairman, there is a problem about priorities. If we wound up, let us say, with the Soldiers' Aid Commission, the Board of Visitors of Homewood Sanitarium and three or four really minor bodies, I think we would not be doing our job.

If we are going to come up with a list of 10 or 11, which is what I see as a working list, that would be appropriate. After John has looked at it, we might go from there to eight. I would be unhappy with our having a list of eight in which that was one of the major ones we were going to deal with if it was not balanced by some more major agencies and boards.

Mr. Chairman: Okay. There does not seem to be a consensus on that. Shall we hold that down towards 10th or 11th spot?

Mr. Cassidy: I would put it in the same list as the IDEA Corp. Let us come back to it in a few minutes.

Mr. Chairman: The next one is the Advisory Council on Equal Opportunity for Women.

Mr. Cassidy: I think there was a fair consensus that might be appropriate to look at. In view of what we have done with Sally Barnes and--

Mr. Epp: I think we should. That is why I suggested it.

Mr. Chairman: Okay. There is a consensus there.

Mr. Eichmanis: The Ontario Human Rights Commission.

Mr. J. A. Taylor: If we are going to the women again--and I am not objecting to that, to another board dealing with women's issues and opportunities--what is wrong with pursuing the game and fish?

Mr. Cassidy: I am not saying that it is wrong. I am saying that if we get a list of 11 or 12 from 400, we have done very well. Then let us go back over it and look at the priorities in terms of what we come up with.

Mr. J. A. Taylor: Maybe each of us could choose his favourite board.

Mr. Chairman: I guess we do not have consensus on that one.

Mr. Eichmanis: The Ontario Waste Management Corp.?

Mr. Cassidy: I am sorry, Mr. Chairman. Jim, what are you saying? You have just blithely killed what I had taken to be a consensus on looking at the Advisory Council on Equal Opportunity for Women.

Mr. J. A. Taylor: The thing is that I am not trying to be disruptive or argumentative. I do not think that one person should influence the total list.

Mr. Cassidy: Yes.

Mr. J. A. Taylor: You have advocated a number of these boards and agencies and I have been silent. If you raise the question, then the matter is referred. If I raise, then I am being disruptive or asked what have I got against it. I am just saying that in terms of priority--I mean we have had the Ontario Status of Women Council in. We just finished that. I do not know what this other board does, but I am just saying maybe it is not a bad idea to diversify in terms of the types of agencies we are reviewing.

I like the Game and Fish Hearing Board. You figure the review board may be significant when you consider that we are talking about an industry here and the right of that industry to carry on its occupation, because if they cannot get a licence, for example, to fish and are turned down, maybe the three or four generations that have been in the commercial fishing business are out of business.

Mr. Cassidy: I think that is a very legitimate concern.

Mr. J. A. Taylor: I think it would be interesting to take a look at that board and the matters that they should deal with. It would address some of the concerns Mr. Johnson has and certainly some of the areas I am interested in because the eastern basin of Lake Ontario is the last real or significant commercial fishing area in Lake Ontario.

Mr. Epp: I understand what Jim is saying and I am not opposed to having that particular commission. I think one of the things we might keep in mind is that when we do them some of them overlap. For instance, we did the Sally Barnes commission or advisory board and now we have the one on the Advisory Council on Equal Opportunity for Women.

What we should have done was to do them together because maybe one of them should be sunsetted. I do not know. Maybe they are duplicating each other's efforts. Maybe we should take a look from time to time at a group of them. If you take one one year and one three years later and the membership of the committee changes, it is kind of difficult to see where they are overlap and so forth. Maybe this is the time to take a look at the Advisory Council on Equal Opportunity for Women. We should have probably done it this session rather than next. At the same time we could maybe do the one that you want.

Mr. J. A. Taylor: I do not object to that. There are so many, and we cannot make everything a priority. I do not object to looking at it. I think we should look at them all if we can. I do not have any objections, but I do not want to be disruptive, Mr. Chairman.

Mr. Cassidy: Mr. Chairman, I think a very strong and powerful case has been made for looking at the Game and Fish Hearing Board. What I was simply suggesting is that if you are concerned about tradeoffs and so on, Herb has suggested the IDEA Corp. and I had expressed interest in the body relating to women, while Jim has expressed interest in game and fish. Let us distill the 20 that John Eichmanis has got down to 11 or 12. Then at that point we may wind up saying that the funeral services people have not been causing a lot of problems recently and maybe that is the one that goes by the board so that the other priorities can be reflected in what we do.

Mr. Epp: I think we might say that all the people who use the services of the funeral homes have not been complaining.

Mr. Watson: That is worse than the (inaudible).

Mr. J. M. Johnson: I have a tendency to agree with Jim that we have had Sally in. Basically the bottom line seems to me to be that we have created a new ministry with Bob Welch as minister in charge of women's affairs and the same answer is going to come that until he defines what he is going to do and what direction it is going to take, they are not going to be all that supportive. Let us take a look at them a year from now.

Mr. Chairman: There is now definitely no consensus on that one.

Mr. Cassidy: I think we just lost consensus on that one.

Mr. Chairman: Yes. What is the next one?

Mr. Eichmanis: The Ontario Human Rights Commission.

Mr. Cassidy: I feel it is important, but probably there are other ways in which that concern is voiced. It is under a fair amount of public scrutiny and it was debated in the Legislature three years ago. It is important but not a priority for this round as far as I am concerned.

Mr. Eichmanis: Ontario Waste Management Corp.

Mr. J. A. Taylor: Are you putting that down? I would not deal with human rights and waste in the same breath.

Mr. Chairman: Since Mike is the one who mentioned that, I believe--

Mr. Cassidy: It was not me.

Mr. Chairman: Was it not? Is there a consensus? Mike is lukewarm on that one, human rights?

Mr. Epp: There are some I prefer more than that one. So I agree to--

Mr. Chairman: Let us set it down for a moment.

Mr. Eichmanis: The Ontario Waste Management Corp. Mr. Johnson had that as one of his interests.

11 a.m.

Mr. J. M. Johnson: I wonder if that is as important since we can get into that one in the Ministry of the Environment. Dr. Chant has to report to the Minister of the Environment. He comes before the committee during estimates. Leave it on if the other people want to, but let's put some of the others up ahead of it.

Mr. Eichmanis: The Apprenticeship and Tradesmen's Provincial Advisory Committee.

Mr. Epp: There was the Urban Transportation Development Corp.

Mr. Chairman: I don't think there was a consensus on UTDC. I think somebody presupposed what their answers would be.

Mr. Epp: I don't think we can presuppose what their answers can be, Mr. Chairman. They spend millions of dollars, and I think we should be interested in that particular group. You might even want to take a ride on one of those units.

Mr. J. A. Taylor: Mr. Chairman, if I may again go back to my query in regard to the mandate of the committee, and again I appreciate the breadth of that mandate, but with that very fuzzy focus, you have to remember that we have the public accounts committee that has had UTDC in. It has had a number of these same bodies before it. We have, of course, estimates where certain issues are debated and discussed. While we may not be exceeding our mandate, because of the breadth of that mandate, we may, nevertheless, be guilty of overlap and duplication. I just point that out to you because I know I have had some experience having been on committees where these same organizations have been before them recently.

Mr. Kolyn: Mr. Chairman, just for the committee's information on public accounts, we have looked at UTDC. I think at

the present time we are looking at crown corporations and the mandate they have, and I am sure UTDC will be coming up in light of the fact we have gone into the joint venture, I think with Bombardier, the Montreal firm. If you really want to look at it again, we looked at it. I think we spent a day on it previously.

Mr. Chairman: There definitely does not seem to be a consensus there because of redundancy.

Mr. Eichmanis: Apprenticeship and Tradesmen's Advisory Committees, Mr. Epp.

Mr. Epp: Everyone is interested in jobs and we can say that this is one that has been talked of before, or you could say we duplicated it with the manpower commission where we talked about apprenticeship there, but--

Mr. Watson: I would be in favour of apprenticeship. I think that maybe there is some duplication with the manpower, but we should find that out, whether or not they are useful in their own right or whether they should be voted into the manpower commission on what they do.

Mr. Cassidy: I sense there may be some consensus on this one and I would be prepared to have a look at it.

Mr. Chairman: So that is a yes?

Mr. Eichmanis: The Minaki Lodge corporation?

Mr. Cassidy: In the interest of harmony and because I had expressed concern about some other things, for example, one body related to Franco-Ontarians, I would discretely withdraw the strong support for the Minaki thing, probably also because I sense there is a lack of consensus on that one.

Mr. J. M. Johnson: I can't support this one because it just opened. I think every company has a right to have an opportunity to operate a short while before we start zeroing in on them. Set it aside for a couple of sessions.

Mr. Watson: Put it off until summer and we will go up and see.

Interjection.

Mr. Chairman: The next one?

Mr. Eichmanis: The Social Assistance Review Board?

Mr. Cassidy: That was my suggestion and that is one where I think a committee like this can be of assistance. It is like the game and fish one in the sense that the game and fish board, I think you were saying, Jim, although it relates to a small portion of the people in the province, it can have a very strong impact on the future livelihood of individuals. Is that not what you were saying?

Mr. Chairman: Okay? Agreed.

Mr. Eichmanis: The Police Complaints Board.

Mr. Cassidy: What is that, anyway?

Interjection: That's the Metro Toronto board.

Mr. Chairman: That has really only been going for a year and a half.

Mr. Epp: That's the (inaudible), isn't it?

Mr. Eichmanis: It's (inaudible) and it has a sunset clause in it.

Mr. Chairman: A three-year sunset. So it will be reviewed in another year and a half under its own sunsetting provisions. Is that necessary?

Mr. Cassidy: But every board gets that review after three years. Is that not correct?

Mr. Chairman: No.

Mr. Eichmanis: Only advisory ones.

Mr. Chairman: Yes, and that is Metro Toronto only.

Mr. Eichmanis: The Ontario Council on University Affairs.

Mr. Cassidy: That was mine, but I would say there are other higher priorities.

Mr. Eichmanis: Ontario Share and Deposit Insurance Corp.

Mr. Cassidy: Likewise, unless there is interest from other members of the committee, I would say that can probably be pursued by other means.

Mr. Eichmanis: The Alcoholism and Drug Addiction Foundation.

Mr. Cassidy: That, on the other hand, may be interesting. It's a very large body; I think it has a budget of about \$40 million or \$50 million a year, has it not?

Mr. Eichmanis: I'm not sure.

Mr. J. M. Johnson: Actually, Mr. Chairman, that might be an important one to get into. The Premier has just appointed a former police commissioner to head up a new committee on drinking and driving. It is my feeling that instead of penalties or jail terms for people who are drinking and driving, there should be a rehabilitation training program. Maybe there is some merit in having that.

Mr. Chairman: Is there a consensus on that?

Mr. Watson: I think we should do at least one in that broad area. We did the cancer one this time around. There is no relationship, but it is in public health field.

Mr. Chairman: Okay? Herb for the Liberals? That's agreed.

Mr. Eichmanis: The Board of Parole.

Mr. Chairman: I would be interested in that. We have not had any in that area right back--

Mr. Watson: What parole board? Do we have a parole board? I thought the parole board was federal.

Mr. Chairman: No. There is a provincial one as well as the federal one.

Mr. J. M. Johnson: I suggested that. I would very much like to hear their side of it.

Mr. Cassidy: I would be comfortable if other members of the committee wanted to have a look at it. Again, it is an important area that affects people's lives.

Mr. Eichmanis: Then there are the three that the committee, I assume, has already agreed to, namely, the Crop Insurance Commission of Ontario, the Board of Visitors of Homewood Sanitarium, Guelph, and the Nursing Homes Review Board.

Mr. Chairman: That is nine, apparently, already.

Mr. Epp: Would you go over the other six then?

Mr. Chairman: The ones that are agreed are the Crop Insurance Commission of Ontario, the Board of Visitors of Homewood Sanitarium, Guelph, the Nursing Homes Review Board, the Board of Funeral Services, the Ontario Educational Services Commission, the Apprenticeship and Tradesmen's Advisory Committee, the Social Assistance Review Board, the Alcoholism and Drug Addiction Research Foundation and the Board of Parole. That is nine.

Mr. Epp: Do you still want to know about the IDEA Corp.? I just cannot understand you people. I thought you--

Mr. Chairman: How many are we going to do? We have nine; that is almost doubling up what we have been doing. Mind you, some of them are more minor. Okay?

Mr. J. M. Johnson: Maybe we should take six out of the nine.

Mr. Chairman: Actually, it is to be hoped that some of those small ones, the Board of Visitors of Homewood Sanitarium, Guelph, the Board of Funeral Services and so on, even can be put two in an afternoon.

Mr. McLean: Why don't we do one in the morning and one in the afternoon? We always get carrying over--

Mr. Chairman: Okay. Nine would work in totally for a week.

Mr. Kolyn: Mr. Chairman, just looking over the agencies, boards and commissions we have reviewed to date, and I think it is about 45, there is one that struck me as a little bit amusing. It is the John Graves Simcoe Memorial Foundation. I was in Bristol, England, a year or two ago, and we have some land or something there. I am just wondering, maybe we should have a look at that.

Mr. Chairman: The clerk tells me that has been sunsetted.

Mr. Kolyn: Has it?

Mr. Epp: The province owns land in Bristol, England?

Mr. Kolyn: It is sort of a memorial thing, if I recall rightly. But I thought it was sort of unusual that we, in Ontario, had something in England.

Mr. Epp: And you are recommending that we go over and take a look at this piece of land?

11:10 a.m.

Mr. Kolyn: I recommend we could have a look at it.

Mr. Epp: If you want to go over, I would be glad to go with you.

Mr. J. M. Johnson: I suggest that procedural affairs should get stuck to check on the land.

Mr. Chairman: Gentlemen, we have other people waiting patiently. Mr. Cassidy.

Mr. Cassidy: I just have one comment. I think I heard of three that perhaps should be considered to be very high on the priority list for the round after this in January and February. One is the Game and Fish Hearing Board. The others would be the Council for Franco-Ontarian Affairs, or some other body relating to Franco-Ontarians, and the IDEA Corp. We might just simply bear that in mind when we get to choose again that those three should have early and serious consideration.

Mr. Chairman: We can keep a record of that just the way we did with the crop insurance one for this time.

Mr. Cassidy: That is right.

Mr. Chairman: Fine. Thank you. The clerk and researcher will go after those.

We have with us this morning people from the legislative counsel's office and the Ministry of Municipal Affairs and Housing regarding the private bills. I think the clerk has distributed to you the memorandum that Smirle Forsyth put out to the various

municipalities and the summary of the replies as well as a quite thorough reply from the Ministry of Municipal Affairs and Housing from the deputy minister.

Interjection: There is a mistake on that.

Mr. Chairman: Right. On the briefs of objectors and supporters, I did not put a question mark in but that was my ignorance. It is not the city of New York; it is the city of North York on the summary.

Who would like to lead off? Mr. Revell is here. Maybe Mr. Revell could give us a brief thumbnail sketch for those members that were not on the committee when this was dealt with before. Perhaps he can lead us up to the problems and the suggested solutions.

Mr. Revell: Thank you, Mr. Chairman. As a result of a paper I prepared last winter, some suggestions were brought forward to this committee for a review of the private bills dealing in three specific areas.

One of them was a requirement that a compendium of relevant background information be filed prior to the first meeting of every private bill application. The rationale behind this is summarized in the materials that Mr. Forsyth has circulated to the committee.

The thing about a compendium is that, quite frequently, when we get before private bills, the first time we see any official documents--in fact, if we see any official documents--supporting a private bill application is at the hearing stage. This makes it difficult for people who want to review and prepare for private bill hearings to come to the committee hearing prepared for that.

I felt strongly for quite some time that there should be more information that is prepared by the applicant that is available to the committee so that we can consider these things in a more logical fashion.

The second proposal--

Mr. J. A. Taylor: Mr. Chairman, would it be more comfortable to deal with these as we go through or do you want to wait?

Mr. Chairman: I think he was giving us a thumbnail sketch just of the overall situation and then going back to the three different areas specifically.

Mr. Revell: I think that deals with the compendium issue and why I have thought it would be a good idea.

The second proposal was for briefs by supporters and objectors. It is not only the applicants that come to committee hearings before the Legislature. Obviously, there are frequently supporters, not the applicant himself, but, for example, anybody

who is involved with Bill Pr3 right now, the city of Toronto private act dealing with demolition control, is well aware that there are numerous supporters of the city's position that apartment buildings should not be torn down and there are numerous objectors to that legislation. Again, the material that we receive is often received at the last minute, if we receive anything at all.

The proposal at the May 12 meeting of the committee was that there should be a formal requirement requiring briefs, because the preparation of a brief can be quite an onerous expense, particularly for individual citizens who have no experience before committees. A sophisticated brief is a costly thing to prepare. Anybody who has ever been involved with hearings is well aware of that.

It was agreed that it would be recommended that briefs be submitted in a timely fashion, if possible. That is going to be handled by an amendment in our private bills circular which is submitted to applicants and to people who have an interest in private bills. It will indicate that supporters and opponents should notify the Clerk of the Legislature of their wish to make submissions, and it is recommended that supporters and objectors submit to the Clerk a brief summary of their proposed submissions. This again would facilitate preparation for the committee hearing by all members of the committee.

Just as in the trial of a civil action in Ontario, where there is a pretrial discovery to find out what the case is on the other side, it would allow supporters and objectors to come to the committee more fully informed as to what the real issue is. It would probably cut down on the amount of hearing time if everybody knew what the central issues were. I cannot promise it will cut down on the hearing time, but it may.

The third proposal had to do with consolidation and revision of private legislation. I think this is probably the gut issue here. There has never been any official consolidation and revision of private legislation in Ontario. Some municipalities, such as the city of Toronto, have private legislation that dates back to pre-Confederation days. We would not propose to deal with that pre-Confederation legislation, but we should certainly be dealing with that long list of private acts that exist right now.

Mr. Epp: Pardon me, Don. Are you saying these pre-Confederation acts are still valid?

Mr. Revell: Sure. The law of Canada as it existed in 1867 was carried forward upon Confederation; so anything that is out there may still have effect.

I do not know how many people have ever seen volume 9 of the Revised Statutes of Ontario, but there is a list of private legislation that goes on, page after page, with as many as three entries per line dealing with the private legislation of the various municipalities. There is quite an extensive body of law out there that is not readily accessible to the legal profession and the citizens. In fact, I think, and Mr. Donaldson can confirm

this, when this table of private acts was prepared and published--this is the first time we have ever done this--some municipalities were quite surprised to find that they had private legislation on the books.

I meant to bring down an extract from a journal called Statute Law, which our office subscribes to. There is a just a squib article in there inviting people who know of the existence of any private legislation in England to send it in to some organization that is trying to prepare a listing of all the private legislation that is in existence. In England, the problem is a little more difficult because it does go back to about the 14th century. We have to deal with only a little more than 100 years.

Anyway, the proposal is that municipalities be required to bring forward consolidation and revision legislation. In my paper, I recommended that we not go the way the English did with some private legislation back in the 1970s. They did something very draconian. They repealed all the private legislation of two or three major municipalities at a date two or three years hence, and the two or three years was to allow the municipalities to prepare consolidations and come back to Parliament. It did not work. They had to extend the time and extend the time and extend the time.

I have suggested a 10-year time frame, and it would not repeal the legislation. What it would do would be to put a procedural rule in place to prevent them from applying for more private legislation until they bring forward the consolidation. I would not want to get into the situation where we just sunsetted every last private act that is on the books.

11:20 p.m.

There was another proposal that is involved in all this. That is, the way to cut down on some of the private legislation hanging around for all time would be to have sunset clauses. I do not have my original paper with me, but I would like to make one comment on sunset clauses. It comes out in the ministry's brief, and I think one of the municipalities in the summary refers to sunset clauses. They could be a dangerous thing because, in the press of business, if you have an automatic sunset clause in every piece of private legislation in some cases the legislative calendar of the House would not permit them to get back here and get it through in time. As a result, bylaws could be thrown out that are really good things.

But there should be some cases where, as a matter of intense review at the private bill hearing, decisions are made as to whether or not these are particular cases where sunset clauses might work. For example, where there is a consensus that a controversial piece of legislation should be given a chance to operate, it might be a good idea to consider how long should that piece of legislation be allowed to operate, on an experimental basis if nothing else.

These are the things that came forward. I was pleased by the response in the materials that Mr. Forsyth has circulated. Maybe I

am misreading this, but it looks like virtually every municipality and outside body that was consulted seems to be in favour of the compendium. They are also in favour of briefs by objectors and supporters. I see there is an objection to the sunset clause in the consolidation and revision, which I already alluded to.

Mr. Epp: Windsor is the only one that really objected to the consolidation.

Mr. Revell: Ottawa too. There are some concerns. These are feedback comments that I got informally by telephone, because I did not solicit any opinions. In talking to municipal solicitors over the summer, their concerns were the cost of tracking down their private legislation, the preparation of the bill, what they do with provisions that were contentious before and probably remain a little bit contentious, how long is it going to take to get these things through committee and how much time the committee wants to spend on them.

As you are aware, we do revise and consolidate the public law of Ontario every 10 years. That is done in a very different way from the way my proposal would operate. That is, by legislation we have appointed, every 10 years, commissioners for statute revision. In the last several revisions, the commissioners have been the senior legislative counsel for Ontario and the deputy senior legislative counsel for Ontario. They prepare the consolidation, they prepare a roll and submit it to the Lieutenant Governor in Council. They then arrange, with the Clerk's office, to table the roll in the House. Upon tabling in the House, the statutes come into force on a day named in the proclamation of the Lieutenant Governor.

This has worked very well. It means legislation is consolidated and brought up to date so that everybody is aware of the current state of the law. Of course, we have left unconsolidated and unrepealed provisions that have very limited applications over the years. The procedure has worked very well. Maybe the city of Ottawa's objections could be met on the basis of some form of expedited hearing for this kind of legislation where all they are doing is consolidating existing provisions no matter how contentious they are. In law there is an expression, *res judicata*, something that has been decided once should not be decided again--so some sort of expedited procedure for allowing this legislation to proceed.

The other concern the city of Ottawa had--it was something I had never addressed my mind to, and that is why it is always wonderful to circulate and get outside views on this sort of thing --is what about the horrendous cost of advertising a consolidation statute? The advertisement for the city of Ottawa or the city of Toronto would probably take up an edition of the Toronto Star or the Ottawa Journal, and that would be totally impractical if you were setting out each individual provision and saying, "We are going to have an act that does this, this and this; consolidates this section, this section and this section." It might be possible to handle the advertising by just saying: "Notice is given that the city of Ottawa is applying for an act to consolidate its existing private legislation. Copies of the draft bill are

available for inspection in the office of the Clerk of the Legislative Assembly and in the office of the clerk of the municipality." Then that would be it.

The purpose of a consolidation is not to amend the law; it is to bring forward the existing law so that people who have to work with the existing law can find it in a readily accessible place. I think many of the concerns of the city of Ottawa could be met in the way I have just described.

I do not want to monopolize the time, Mr. Chairman.

Mr. Epp: Mr. Chairman, may I interrupt to ask a question while we are on this subject? Take the city of Ottawa; they obviously have dozens of bills--or a few thousand, probably--that have been on the books over the past 100 years or so. One thing is to consolidate it all in one document; but the other thing is that some of this stuff must be very old, and they would want to amend a number of sections. Would you anticipate that they would come to the Legislature and amend some of that too? It would be a kind of thorough review from their point of view as to what is necessary.

The other thing is that there must be private legislation on the books for whatever municipality that is now superseded by general legislation; that private legislation no longer would be necessary and so you would have to amend it.

Mr. Revell: I think that would be one of the advantages of bringing forward a consolidation bill and requiring municipalities to examine what they have on the books.

I think the city of Toronto would disagree with me, but the one I constantly refer to is the City of Toronto Act, 1936, which was the first property standards legislation in the province. That legislation has been amended at least 13 times since 1936. The city of Toronto does prepare an office consolidation, which is an unofficial but up-to-date copy of that legislation. If you want to deal with it on the "official basis," you really have to get all of the different statute volumes starting in 1936 and go through them yourself. That is the only way you can get to an official copy of this legislation.

That would be rather difficult to work with, and I submit--this is where I get to my own opinion now--that this legislation has been superseded by the Planning Act of, I believe, 1972 or 1973, somewhere in that period of time. The province introduced general property standards legislation enabling municipalities to develop and enforce property standards. The city of Toronto considers its legislation to be superior to the public legislation.

Perhaps until 1983 that may have been the case; it was much stronger legislation. But I think the new Planning Act is superior to the city of Toronto's legislation. It is easier to read. It is in public legislation. It means that a lawyer who is dealing in Metropolitan Toronto--I mean, a North York lawyer is going to be advising Toronto clients--only has to be aware of one set of public law provisions enabling municipalities to deal with property standards. In that case there may be valid arguments for getting rid of it, and the city may consider that.

But forcing them at the consolidation stage to get rid of things where they think their private legislation is superior may be reopening controversies unnecessarily. I think most people would be at least happy to know there is one authoritative source where they can go and get a copy of the legislation. As I say, if we could at least get them to the stage of consolidating what they have, whether they want to retain something that is different from the public legislation, I cannot really argue that.

11:30 a.m.

Mr. Epp: I guess you are saying you would recommend that the option be left with the municipality whether they want to amend or not amend. The onus should be on them, put there by the province, to consolidate; but if they are going to amend, it would be their prerogative. Is that an accurate assessment?

Mr. Revell: Yes. If they are going to amend it, they would have to advertise, though, that they are not only consolidating but also amending.

Now, there would be some amendments that necessarily flow from consolidation. Terminology has changed over the years; so they may have legislation that was passed in 1903 that used one kind of terminology, and it would be much easier to use some other words that express the same concept in 1983.

Mr. J. A. Taylor: On that point, and relevant to the issue, are there pieces of legislation of a general nature that impact on private legislation with the effect of amending or nullifying private legislation?

Mr. Revell: Yes.

Mr. J. A. Taylor: That being so, what reliability would you have or could you place on a municipality's efforts to consolidate and, I assume, interpret its own legislation? Following that, would you not have to start with what the municipalities provide and do the job yourself from there?

Mr. Revell: I think it is going to be an onerous task for those people who are involved in it from the government side. Legislative counsel, as advisers to the Legislature, are also going to have an onerous task. So it is going to be difficult, there would be no question about that.

Mr. J. A. Taylor: I went from my second question, which followed my first, to a third. Maybe you could comment on the acceptability or reliability of the municipal effort. Would you just accept that as being the current status of the law?

Mr. Revell: No. I do not think we could.

Mr. J. A. Taylor: I would not think so either, and that brought me to my third question. In the final analysis, are you or the provincial government itself not going to have to review all of this? I am thinking too of maybe the next step, which is a change in general legislation that may accomplish in a general way

common practice by municipalities because of special legislation. It is not entirely universal, but it is something that maybe should be covered by general legislation.

Mr. Revell: I cannot speak for what the various ministries' problems will be; maybe Mr. Donaldson or Mr. Fleming can comment on that. From our point of view, legislative counsel, of course, reviews all present applications for private legislation, and in many cases applicants--not just municipalities--are delighted to find out that what they want to do is already covered by general legislation. It saves them on advertising cost and so on.

As a good example of that, just recently the Business Corporations Act was amended to extend the two-year revival period where a company is cancelled for cause to five years, and there are a number of applicants who as a result of that are going to save a considerable cost. But we were still receiving applications and phone calls about this sort of thing with these companies that have been defunct for only two and a half years as recently as a week ago. In fact, there is one application that is halfway through, and the applicants are purely delighted because with the change in law, instead of waiting for the Legislature to pass a bill, they can go by an administrative procedure, which should have them revived before the House reconvenes in October. So, yes, there are changes in the law that are important.

Municipalities do have some problems. I have talked to municipal solicitors from time to time about this where they have applied for a special legislation and received it, then the public law has been changed to give them basically the same powers. They want to know whether they should be passing their bylaws under the general legislation or under the special legislation that is similar to, if not the same as, what they originally applied for. That becomes a very difficult question.

I am sure, Mr. Taylor, you will appreciate those canons of law: special legislation overrides general legislation; later special legislation overrides earlier general legislation; but later general legislation, unless it specifically so provides, does not override earlier special legislation. There are all kinds of thorny problems out there that do create problems unless people are reviewing their laws from time to time.

This sort of procedure is going to force some hard thinking about when they come forward, as to whether or not they will consolidate the act and bring it forward because it is different from the general legislation, or whether they can exist under the general legislation and just forget about the private legislation and repeal it.

I think it is going to be a valid experience. I do not know how much further I can comment on that. You have raised all the issues that are germane to the problem of which acts override which acts. It is a very difficult area.

Mr. J. A. Taylor: What I see is a big chore on the part of this government to take it to the next step. I can envisage that and think it should be done.

Mr. Mancini: I just have one main concern, and that is the idea that briefs should be filed by supporters and objectors. I am not sure a committee of the Legislature is the proper forum for objectors and supporters.

I recall that two or three years ago a colleague of Mike's from Brantford introduced a private bill for the city of Brantford. You may recall that bill; it had to do with the construction of a downtown complex. They came to the private bills committee asking us more or less to approve their project so they could bypass the Ontario Municipal Board. Basically, what happened was that the committee turned into a forum similar to the OMB except there were different players and the players were elected instead of appointed.

At the time, we had to listen to a great number of supporters and objectors: supporters from city council, objectors from city council, supporters from the downtown business core, objectors from the downtown business core. We were subjected to a hearing which--

Mr. J. A. Taylor: The municipal board could not undertake it because it did not have jurisdiction.

Mr. Mancini: It was not that, Jim; the city council wished to bypass the OMB at that time. I saw what that type of situation did to the committee. Ultimately, the committee rejected the city's application. It went to the Legislature. We had more debates there and it was rejected again.

It looked more or less like a free vote to the House, with people from all parties voting every which way. I am not saying that is a bad thing--it is probably a good thing--but in my view it would be virtually impossible for a committee of the Legislature, with all the other duties we have, to give fair hearings if we are going to sit as a court like that.

I prefer the present system, as outlined in the lengthy letter by Mr. Cornell which was sent to our clerk, dated August 15, where the proposal goes to the appropriate ministry, then the minister sends comments and the proposal to all the other ministers and they see whether or not it is within the government policy. Then it comes before the committee, and all the objectors and supporters are heard before--

11:40 a.m.

Mr. McLean: Does he not send it to the other ministers for further comments? He does not comment on the proposal; he just sends it to the others for comment?

Mr. Mancini: The way Mr. Cornell describes the process, I believe that is the way it works.

Mr. Chairman: Could either Mr. Donaldson or Mr. Revell clarify the present procedure?

Mr. Revell: I would like to just comment. That was a particularly interesting hearing. It was at points acrimonious, as

I recall. In fact, the committee reported the bill with amendments and it was reported with amendments. It is the only private bill that has had a full debate in the House in the seven years I have been dealing with private bills. It was a free vote. There were ministers of the crown supporting the bill, and ministers of the crown opposing it. There were members of the official opposition both in support and against. There were members of the third party for and members against. It was a very interesting debate. In fact, I would recommend it as good reading. I had occasion to reread it just this last year in writing the paper that led to this particular set of recommendations.

I would like to comment, though, on the procedures for private bills. This is a traditional role of Parliament that goes back centuries. In considering private bills, the Legislature is sitting in two capacities. It is sitting as a legislative body to pass legislation, but the reason that all private bills stand automatically referred to a committee before second reading is because nobody knows what the policy really is. It is not until we have the policy before us, as explained by the applicants, that we can really make a decision. You will recall at second reading you are approving legislation in principle.

We do have this hearing procedure, but it is also acting in a quasi-judicial fashion. In fact, Erskine May, in his book on standing orders, in the chapter on private legislation, does not use the word "quasi-judicial;" he uses the word "judicial" to describe the hearing procedure. It is a traditional privilege extended to those who may be affected by legislation to appear before the committee both in support and objection.

In England, the procedures are much more formal than they are here. You cannot get before a committee unless you have standing. Not every person who does not like a piece of legislation has standing to object to it in England. You have to be a person who is truly affected. In other words, if legislation is dealing with a little bit of the city of Toronto and you live at the other end of the city of Toronto, you might have a hard time proving that you have any standing to be before the committee. It is much like in a court of law where just because you do not like a particular set of litigants, that does not give you standing to come before the court and say, "Don't award judgement." It is much more formal in England.

I think the hearing from supporters and objectors is extremely important. We have had legislation amended because of the concerns of objectors and not people who are objecting to the legislation in its entirety. They are objecting to particular provisions. Just to give you an example of that, a year ago the city of Toronto had some trees--

Mr. Mancini: If I might interrupt you for a minute. How are the objectors and supporters heard now? I do know that supporters go before the committee and read a statement, or they give an explanation as to why they want the bill passed, but how are the objectors heard?

Mr. Revell: In Ontario we have always allowed the applicant--first of all, let us distinguish applicants from

supporters. The applicant is the person who has made the formal application for the legislation. He obviously supports the bill. The supporters are those people who are affected by the legislation and think it is a good thing and want to lend weight to the applicant's position. The objectors are the people who are affected by the legislation and think it is a bad thing.

How do they get before the committee? They have always been allowed to write to the Clerk of the House and say, "I would like to appear before the committee." Then, by leave of the chair, they are invited to appear when the committee hearing starts. They submit their names to the clerk and the chairman invites them, at the proper time, normally after hearing the applicant's position, to present their position to the committee.

Mr. Mancini: How often does that happen?

Mr. Revell: On contentious matters, it happens regularly. I would say on the city of Toronto's private legislation, on probably 75 per cent of its legislation, there is at least one objector to at least one provision in the legislation. Private bills to revive a corporation, as the members who are here will know, normally whistle through in a couple of minutes. We can normally do a half a dozen or a dozen private bill corporate revivals in a morning session.

Mr. J. A. Taylor: On that point, because Remo raises an interesting issue, Mr. Revell has referred, indirectly anyway, to a concept of natural justice, that the person who is affected should have some status to be heard, so he has a fair hearing.

Mr. Mancini has questioned the role of a legislative committee as a substitute for a municipal council, say, or a municipal board. Over the years, as you know, there have been a great many applications--or in least in my experience, a considerable number of applications--for private legislation applied for by municipalities because they have undertaken a public work in advance of municipal board approval and have to issue debentures. That type of thing has come here.

If that application went to the Ontario Municipal Board, the board might very well take the position that they want to hear evidence as to whether or not a municipality is financially strong enough to issue these debentures and to make sure that it is not going to affect the borrowing power of the municipality. They will say it is up to the municipality to determine whether or not the work is in the best interests of the community or not. The board may entertain other evidence, but I am suggesting that might be the principal issue that the board will address.

That application could come here because the work is under way, and unless the board says we do not have jurisdiction, does this committee function as a municipal council and as the Ontario Municipal Board? How is its role defined so the function of the committee is discharged without getting into peripheral issues?

Am I touching on some of your concerns, Remo?

Mr. Mancini: That is exactly right.

Mr. J. A. Taylor: Maybe there is some help on that.

Mr. Fleming: Mr. Chairman, if I could comment on that particular one, I am the assistant deputy minister of the Ministry of Municipal Affairs and Housing and I have Brian Donaldson with me. I think members know Brian. The OMB (inaudible) legislation, precludes, as the member has said, hearing an application from a municipality if the work is already in progress.

One of the problems of the Ontario Municipal Board hearing an application when the work is in progress, in other words, if the general legislation were to be changed, is that if the work has been done by the municipal council it has to be paid for, however. It has seemed over the years to be more appropriate that the Legislature deal with these matters and, if the Legislature so determines, give relief to the municipality for that particular omission. The vast majority of these cases that have come up in the past have come up because a municipality, for whatever reason, has been unaware of a requirement to go to the OMB. To solve it by general legislation might be a case of jumping from the frying pan into the fire.

11:50 a.m.

Mr. Mancini: Mr. Fleming, you have told us then that usually municipalities find themselves in these situations because they are not aware that they are to make applications to the municipal board?

Mr. Fleming: In those cases that Mr. Taylor referred to as opposed to the Brantford case where they have got themselves into a position where they had incurred capital expenditures and discovered they should have gone to the Ontario Municipal Board for prior approval, they then come to the Legislature seeking relief as it were.

Mr. Mancini: Because the municipal board has been in operation for some time now, I find it surprising with the professional status that the clerks, treasurers and administrators have today that they would not be aware of the fact they have to go before the municipal board. I believe just about every council in the province has a lawyer on retainer and so it would--

Mr. J. A. Taylor: Regardless of the reason, and I do not think we should debate that, the issue really is the parameters or guidelines for a private bills committee in terms of that type of hearing because we are legislators and at the same time have to be mindful of the need to see that natural justice is done, or recognized rather. Yet, as amateurs, we could get into a full-scale hearing that usurps the function of a municipal council, a municipal board and maybe a court of law.

Mr. Mancini: I would not say we are amateurs. It is just that--

Mr. J. A. Taylor: I may be more modest than you, Remo, but I--

Mr. Mancini: I know all of the members of the committee and I would not classify any of them as amateurs, but it is just when we get into these hearings, for example, like the Brantford case, it took several days. We heard from many different groups and we saw charts and financial projections. If we start doing this on a regular basis and start hearing 50 or 100 bills a year like this, then we are going to usurp the role of the OMB and we are going to become the OMB. We will have to hire another three assistants for our researcher and our clerk will need two more assistants--

Interjection.

Mr. Mancini: That is right. We will all get more pay, but in my view this is just not the place to do it. That is why I was a little bit concerned as to the subject of supporters and objectors. I think we should be very careful.

Mr. Chairman: Mr. Revell, I think you have something on clarification.

Mr. Revell: I was just going to mention to Mr. Taylor that certain things dealing with municipal finance already stand automatically referred--I should not say automatically referred, but referred on the recommendation of legislative counsel--to the Ontario Municipal Board for a prior hearing. That is dealing with matters of consolidation of floating debt of the municipality, consolidation or renewal of debentures. We are under an obligation to report to the Clerk of the House--

Mr. Mancini: Mr. Revell, a private bill would be introduced so they would not have to go through that process.

Mr. Revell: When it deals with these specific matters, legislative counsel is under duty to report that to the Clerk of the House before first reading and, upon first reading, if it deals with these matters, it is sent down to the Ontario Municipal Board which reports back to the Legislature and advises as to whether or not the bill should be amended or whether or not it should not go forward at all. We do refer these matters.

In the situation Mr. Taylor is talking about, where a municipality has made a mistake, while there is no formal requirement for referral to the board and there is no provision for a hearing by the board on the issue, legislative counsel does send the draft legislation down to the Ontario Municipal Board for its consideration because it knows about the outstanding indebtedness of the municipality. On at least one occasion that I can think of, the city of Pembroke had some legislation where it had made a mistake under the Local Improvement Act, and the Ontario Municipal Board, after reviewing the legislation, made some recommendations for improvements to the legislation so that it would work better.

Mr. J. A. Taylor: That is administrative really, so that the board cannot in an open forum do what you request it do privately, because what you are doing is really requesting its

opinion, and I would think you would respect its opinion. In any event, I think some guidelines would be welcomed--at least I would welcome them--in terms of the types of evidence that a private bills committee should be considering.

Mr. Revell: It is a really difficult issue to deal with. The suggestions that I have made, I would like to point out, are to facilitate and improve what has been in place for some time. We are hearing supporters and we are hearing objectors and the filing of briefs, I submit, is to improve the existing procedures in the House. It is not a radical change in procedures.

Mr. J. A. Taylor: I am not questioning that at all. What I am looking at, and maybe it is not germane to what you are concentrating on now, but it was in response to a concern Mr. Mancini has and which I can see and concur with, is that you could open up a mini House of Lords or something.

Mr. Donaldson: I just wanted to clarify Mr. Cornell's letter in response to Mr. Mancini's point. Our concern was not opposing the suggestion that people file briefs because that is very useful in getting information in advance, but like our friend Mr. Revell, it is almost seven years I have been sitting in on most of the private bill hearings and one of the advantages seems to me that people can come and speak informally. Our concern was that the filing of briefs not become used as a means of making it so formal that individuals felt constrained to come. That is one of the real advantages of this process.

There was a bill from St. Marys I remember where seven people came who were quite concerned about a proposal to change the tax structure of the town. They just came informally and were able to express their concerns informally to the committee. I think that is a very valuable thing. That is really all we were trying to say.

Mr. J. M. Johnson: The comment was made pertaining to objectors that anyone who was affected had the right. How do you define affected? You mentioned the case in England where perhaps someone in one part of London would not be affected.

Mr. Revell: We have never had any definition on that and I cannot think of a situation where, even in very controversial legislation, we have denied standing in Ontario. We have been very flexible. I think our procedures are superior to the English system, where they are so hidebound in rules and regulations about how things get before committees and--

Mr. J. A. Taylor: Establishing status.

Mr. Revell: --establishing status. The committee itself can decide the weight of the evidence and whether or not it wants to hear a particular person. As I say, I cannot think of any situation where a person has been refused the privilege of speaking, and I think it is a privilege, before the committee; it is not an absolute right. The chairman and the committee can decide whether or not they are going to hear a particular person.

12 noon

Mr. J. M. Johnson: I am not sure I agree. You have to hear them before you can decide whether it is frivolous. They don't have right, but at that time they have already spoken.

Mr. Revell: In England, of course, the issue of status is determined before the hearing begins. There is a separate little body that meets and decides issues of status.

Mr. J. M. Johnson: I have had some sad experiences with the right of delay. My county wanted to build a bridge in Elora and spent about five years trying to get it through because of, in my opinion, frivolous complaints.

Mr. J. A. Taylor: That was by Morley.

Mr. J. M. Johnson: Your mayor was one of them.

Mr. Epp: Not my mayor, it was the Kitchener mayor, Morley Rosenberg, Leonard's brother.

Mr. J. M. Johnson: Maybe in their minds there were reasons for not allowing them to proceed, but all I am thinking of, in terms of any citizen who felt he was affected, someone living in Moosonee could complain about something in Toronto and has a right to. Do we not push it to the limits? Do we not defeat the purpose?

Mr. Revell: Actually, I am trying to think of a case, and I can't think of one, where the people who have come forward were people who were not affected by the legislation directly as residents of the municipality. I just can't think of a situation where I have given you the hypothetical situation arising in Ontario. We have had some very lengthy and very controversial hearings.

The first one I was involved with that I would consider in any way controversial--some of the people present in this room were on that committee--was the Georgina township bill back in 1977 which had to do with the ward boundaries. We had to acquire the use of the Ontario Room over in the Macdonald Block, the largest meeting room they have, to accommodate all the people who were there. Luckily, they didn't all want to speak. They had spokesmen for each little faction involved, but it was a long, controversial hearing that lasted until I guess 11:30 or 12 o'clock on a couple of nights. We ignored the clock and kept going. It was a very controversial issue.

Mr. J. A. Taylor: You don't suppose it is a favourite public pastime to attend private bills committee and make presentations as an exercise in entertainment.

Mr. Cassidy: I have a couple of questions, probably in response to what Remo Mancini had to say. I was concerned. I don't believe we are changing the process from what exists already that much. That is not being proposed. Therefore, Remo is concerned that we not get overwhelmed with bills like the Brantford bill. The fact that this has occurred only once in seven years and that for the most part most municipal legislation that comes through in

the private bill process is a lot less controversial suggests to me that there is no evidence now that the process is being consistently abused or used as a way to end-run the Ontario Municipal Board.

Is that a fair conclusion, from the experience of recent years?

Mr. Fleming: I think so. I think there is a distinction to be made in the case perhaps of the legislation relating to debentures, which in my experience has never been intended to be an end run, but a correction of an omission.

The Brantford legislation was specifically intended to end-run the OMB, if you want to put it that way. It seems to me it is the first situation where correction of an omission might be dealt with in the same way as some of the general legislation deals with the situation where in some cases in general legislation the minister can ask the OMB to have a hearing and make a recommendation. I wonder whether it would be possible for the committee to ask the board to have a hearing and make a recommendation to the committee.

Mr. Cassidy: Now you have really confused me. Where something comes up which the Legislature is uneasy about, it is my impression that there are cases, and Brantford may be an example, where the buck does eventually stop here. That is the way it works. We get into things even if we don't particularly want to.

Short of that process being abused or the time required being excessive, we have to accept that, but you are suggesting that in a case like that, where a standing committee has some doubts, it might shift the thing down to the OMB and you can have a look at it first. Is that right?

Mr. Fleming: I make a recommendation to a committee, where the buck still ends up with the committee, but they have the OMB hearing in the normal way. The Brantford case was different. They specifically asked the Legislature to make that determination rather than the OMB. So the Legislature had to make a decision, "Are we going to do that or are we not?"

Mr. Cassidy: As I recall, there were business reasons why they basically could not. Many people in the city thought it was good for Brantford, but the deal would not apply if they faced a two-year delay before the OMB. That was their problem.

Mr. Donaldson: That is right. They were under pressure from the developer for a quick decision on the redevelopment plan.

Mr. Cassidy: And, although there would have been a majority of people in favour of the proposal, it was a vociferous and determined group that had dug in and was prepared to fight and fight again.

Mr. Donaldson: As I recollect the issue, a couple of businessmen wanted to be included. They felt the plans should be adjusted so their businesses could be included and that was the one specific.

Mr. Cassidy: I think it was Remo who said he felt that the procedure, when the ministry looked over it, proposed by the legislation and prior to its coming to committee, was preferable to what is being proposed. I do not believe there is any change. In fact, the ministry will continue to do what you do now in terms of trying to review legislation and then have relevant officials present to give the government's view on particular legislation. Is that correct? There is no particular change, is there?

Mr. Donaldson: No. We did not see the two as related to anything. It would continue as work with Mr. Revell, an informal review of legislation within the government to get a consistent point of view. But it was not intended in any way to suggest that it would be changed.

Mr. Cassidy: The third thing I hear is that with respect to filing of briefs, that would obviously be of benefit, but on the other hand there is a problem with some people that often these issues do not become real in people's minds until a week before the darn thing is going to come up in committee. We all know that is the way life works and it is one of the reasons for not wanting to shut off the avenue of simply coming and attending, or calling the committee clerk three days before and saying, "Look, the Legislature is doing something awful, and can I come down?" and being able to participate in that way.

As I understand it, what is being suggested here, and what has a good deal of support from the municipalities, is that at least briefs should be encouraged so that with those bodies such as municipalities, perhaps developers and groups like that, which can organize themselves in advance, there would be some pressure to try to get what they have to say down on paper but it would be in order to expedite the hearings when they occur down here.

Mr. Donaldson: Yes.

Mr. Cassidy: On the other hand, if Cadillac Fairview blew it and they were involved in something like this and wound up coming in at the last minute, they would not be excluded from making the presentation just because they had not put in a brief beforehand. Is that correct?

Mr. Donaldson: That is my understanding of the proposal.

Mr. Revell: It has been my experience that the larger, more well-organized lobbies do tend to produce briefs, partly because they are used to doing it, and maybe Mr. Forsyth can say in terms of filing. I quite frequently do not see them until the day of the hearing, but I think many of these briefs are submitted two or three days ahead of the hearing. Then by the time Mr. Forsyth, or whoever the committee clerk of the day is, arranges for the Xeroxing and distribution of them and so on, quite frequently the brief itself is not available until the day. So they do prepare briefs that set out in a short form what is going on.

But there are instances of where the briefs have worked, and I have seen several of them. A few years ago the city of Toronto had one dealing with trees, where it was going to be against the law to injure a tree and you were going to have to have a permit to cut. In fact, this goes for trimming a tree. The Toronto General Burying Grounds and the University of Toronto, which have two of the largest tree collections in the city under their jurisdiction, said: "Holy cow, if we have to comply with this, we will not be able to look after our trees any more because we will be down spending all our time at the hearing."

I think the members of the committee who were sitting on that particular day were quite appreciative of the fact that they had these two briefs and that the people who made the briefs were there to speak to them as well. The issue, in what could have been a controversial section, was dealt with in about two minutes when it could have dragged on for hours.

12:10 p.m.

Mr. Donaldson: In response to Mr. Cassidy's point, our ministry's concern is that we are constantly aware that there are two kinds of private bill applications, one from the large municipalities which tend in general to be somewhat more controversial, and then there is the large body of other municipalities which often do not have permanent legal staff, are not very big, and have more infrequent private bills which tend to deal with a discrete type of application. Those kinds of hearings, to my experience, are much less structured and more informal. That was our only concern, to try to keep in mind the interests of smaller municipalities.

Mr. Chairman: Can we go back, start at the top again, perhaps with the three items?

Mr. Cassidy: I have to go I am afraid. I have just learned that Mike Breaugh was absent because of flu. On the compendium there seems to be a consensus.

As far as I am concerned with respect to the briefs, they should be encouraged so long as the individuals retain the right to go and appear as they have in the past. It is an evolving process and I certainly don't think we should revolutionize it. On the third point, some of the concerns about making the consolidation provisions too restrictive, which are reflected in the ministry's letter, I think should be listened to. I don't know if that is helpful.

Mr. J. A. Taylor: I'll pitch in for you, Michael.

Mr. Cassidy: Thanks a lot, Jim. There is always a meeting of minds. We come around from opposite ends of the circle.

Mr. J. A. Taylor: Do you want me to sit there or can I stay here?

Mr. Cassidy: Remember, you were going to be the NDP member from Timmins except that you went to college.

Mr. J. A. Taylor: It wasn't that really.

Mr. Chairman: Can we go back to the compendium matter? You have read through the material and so on. Is there a consensus that this compendium should be filed with latitude on what a compendium does mean? Agreed? Fine.

What about the second one about the standing orders being amended to provide for advertisements. Is there a consensus on that?

Interjection.

Mr. Chairman: Right.

The third is the more contentious one about the standing orders requiring periodic consolidations, revisions and so on on a 10-year basis.

Mr. J. A. Taylor: On the 10-year problem, Mr. Chairman, I appreciate the thought behind it, but I am thinking of Parkinson again and his well-known laws. I am afraid that people won't start to move until the ninth year. This is a long overdue, worthwhile exercise. There has been a start made in at least identifying the private bills. Maybe I am getting old and am in a bit of a hurry, appreciating my shortened life expectancy. I would really like to see this thing happen.

While some of the larger municipalities may have some difficulty, which will be ameliorated somewhat because of their financial strength and technical staff, there are a lot of municipalities around that could do that job in a shorter period and should be encouraged to do it. I would like to see a foreshortening of that time frame.

Mr. Epp: First, how many private bills are there, do you know, among all the municipalities? Are we talking about 10,000 or would that be close?

Mr. J. A. Taylor: Excuse me. A gentleman with a camera would like to take some photographs and requires permission.

Mr. Chairman: What body is taking the photographs?

Interjection: Someone from the Liberal caucus.

Mr. J. A. Taylor: The Liberal members are over there.

Mr. Epp: We have always let camera people in before. We have even let some Conservatives in from time to time.

Mr. J. A. Taylor: You can shoot your men in action.

Mr. Epp: Is it the right side, Jack, or the left side you want?

Mr. J. M. Johnson: This side.

Mr. Epp: The left side. Okay. Like John Diefenbaker. I think his left side was the best side, too.

Anyway, would 10,000 be kind of a--

Mr. Revell: I think that is high; I would think 3,000 to 5,000. I might point out that the Minister of Municipal Affairs and Housing (Mr. Bennett) has undertaken, and the project is well along the way, to write to every municipality--I think it is outlined in the briefing materials you have for today's meeting--inviting them to review their private legislation and come up with those that are now totally spent.

The government is going to introduce a public act that will repeal at the present time, I think, between 500 and 600 private acts that will go by virtue of this proposed legislation some time either this fall or next spring at the latest. The bill is drafted. I do not think I am giving out a government secret there. This will help the municipalities whittle down the list quite considerably.

Mr. Epp: Is there any thought that some financial incentives should be given to municipalities to do this? Or is it felt that the municipalities obviously have a lot to benefit by? If they have a lot of private bills, if they have asked for them over the years and if a municipality such as Ottawa or Toronto has a lot of private bills, obviously it would have the legal resources available to do the consultation to have them consolidated.

Mr. Donaldson: I know from talking to the solicitors for London and Ottawa, for example, that they find it is really a chore to go through all their existing legislation; so I think it is a time constraint on them. From the point of view of the smaller ones, I think we are helping them quite a bit simply by reviewing them themselves and then, with any luck, getting a bill through in the next year or so. This will save a great deal of expense for individual municipalities. But no, it is fair to say we have a problem.

Mr. Epp: I was out for a little while, Mr. Chairman, but was it part of our terms of reference here to discuss how private legislation is going to be dealt with in the future by the Legislature? Are we going to have a separate private bills committee or something of that nature? Have they looked at that?

Clerk of the Committee: We recommended that in our last report on private bills.

Mr. Epp: So it has all been dealt with.

Clerk of the Committee: That there be one committee doing that, and it has been the practice for almost a year now that the regulations committee deals exclusively with that.

Mr. Epp: I probably should not say anything, but I just think they do not have the same heavy schedule that some of the others have.

Mr. Revell: Just to add to what Mr. Forsyth has said, the recommendation that is in the report that has not yet been approved is that the committee that considers private bills not only consider private bills but also have the authority to review the rules of procedure for private bills from time to time and make reports to the House. I think that was embodied in the report, and that is a very important consideration because it would then be dealt with separate and apart from the normal procedural affairs committee with respect to those particular problems. That leaves in the procedural affairs committee the issues of dealing with public legislation.

12:20 p.m.

Mr. Chairman: Are there some other comments, from the ministry in particular, with regard to the deputy minister's letter and some of the matters he brings up?

The sunseting appears to bring out some negative comments. Do you have any clarification or help for us on that so far as the sunseting is concerned? A couple of the municipalities also had comments on that.

Mr. Fleming: I think Brian elaborated it in his letter. What we are basically saying is that it would be better to look at each individual case and, where it is appropriate, put a sunset clause in, and in other cases it may not be appropriate to have a sunset clause. It is really just a minor variation from what was originally proposed: simply to look not to do it on a blanket basis but to look at individual cases.

Mr. Donaldson: What has been interesting in reviewing the bills that counsels have submitted for repealing is historically how many of them were things like debt consolidation, where it authorized debentures to be issued for 30 years, and it strikes one now in hindsight that it would have been very useful to have put in that kind of bill that as soon as the debenture was finished, the bill automatically be repealed. Or we have got bills now, such as the city of Toronto one that got reported by committee, to allow the retroactive payment of legal fees for the Honourable Susan Fish and another former alderman. That is the kind of bill that would be ideal for that kind of provision where it would be automatically repealed.

Mr. Epp: Brian, you would bring in a bill that would clear up all those kinds of bills? Is that what you are saying?

Mr. Donaldson: No. I think we are suggesting that in the future each individual bill be looked at to see whether it is suitable.

Mr. J. A. Taylor: It would be self-destructing so you would not have to carry it on your books.

Mr. Fleming: For example, there is a bill here, An Act respecting the Township of East York, 1943, which was (inaudible) for a debenture, without approval of council, for five years. That act could have quite easily self-destructed in 1948 instead of our passing a bill in 1983.

Mr. Epp: This concept of self-destructing, this sunset provision; I have only heard about it in the last four, five or six years I have been here. Is this a concept that has been around for 50 years, or is it something that has become more obvious recently? Does anybody know?

Mr. Revell: It is not something we have ever really addressed our minds to very much in Ontario, I do not think. It is a concept that gained great popularity in the United States in the 1970s, particularly with respect to administrative boards and agencies, and it developed because of the very different system they have in the United States. Once you have created an administrative board or agency, you may have created a monster.

I am not saying this would not occur necessarily in Ontario. But when we create administrative boards and agencies, the executive still sits in the House and is subject to questioning in question period; and, of course, its money is appropriated through the normal procedures of the House. So there is a chance to question the expenditures of these boards and agencies, and there is a chance to question the executive as to how the administrative board or agency is performing.

With the separation of powers doctrine in the US, once you have created a board or an agency, while you may be able to get it at appropriations time, you cannot have that kind of questioning of the executive, because the executive does not sit in an American legislative body.

Mr. J. A. Taylor: We have political accountability.

Mr. Revell: Yes, and there is a vast difference in the concept of government. Therefore, sunset clauses became very popular, particularly in those states where you had a Republican governor and a Democratic House, or vice versa, to force accountability.

Mr. Fleming: It is also related to the Proposition 13 phase in the States. The sunseting had the same impact, the same objective, as Proposition 13 to adjust public expenditures.

Mr. Chairman: We are getting near lunchtime and a break. We are on this consolidation and revision, the third part, which has been broken down in three itself. Do we have any more feeling from the committee to give Mr. Revell some assistance or guidance to put the final amendments in place?

Mr. Epp: What are you looking for? I think it is a good idea. There is probably some legitimate opposition, but I think that can be worked out over a period of time. I still think we should press ahead with that. If what you are looking for is full support for that, then I am certainly prepared to go along with that.

Mr. Chairman: Taking number three of the consolidation and revision area, the sunseting, does the committee find favourable the sunseting on an individual basis rather than in all legislation? Individual seems to be agreed.

The second one in the third section, the consolidation, is this re-enactment using their discretion as to whether you re-enact a whole section or do amendments of amendments and so on, a cleaning up or a mechanical situation. The ministry seems to take the position that legislative counsel can do the cleaning up as they go along and use their own discretion as to whether there are amendments and subamendments or whether it is a complete rewriting of the whole section for clarity.

Mr. Revell: I would like to comment on that, Mr. Chairman. In drafting government legislation, legislative counsel has a great deal of control and influence on the style that will be adopted. My personal preference is to re-enact provisions where that is going to make more sense of the law or where the amendment is very small and very technical, striking out the word X and inserting the word Y, but generally I prefer to use a complete re-enactment provision. I have had little objection from any ministry in working with it in the drafting of government legislation on that basis.

Private legislation does raise the very issue that Mr. Cornell's memo, i.e. Brian Donaldson's memo, raises on the subject. They are very concerned about what will happen in re-enacting a whole provision and the controversy that may arise. They are the applicants for the legislation and we are caught in the position of really being there to assist in the drafting.

If they insist on going ahead in a particular way, legislative counsel cannot prevent them from doing that. All we can do is come to the committee and, as counsel to the committee, say: "We do not think this is properly drafted. Here is the way we think it should be done." Then it is a committee decision.

In some cases, we do not have the kind of co-operation from applicants as to the form we would ultimately like. I would say 99.99 per cent of applicants would listen to legislative counsel. We are full-time draftsmen and the applicants are not. We assist in any way we can.

I think any member of the committee who has had a private bill before the House has probably heard from the applicants that they did receive assistance from legislative counsel in the drafting. I do not know whether they are happy or unhappy with the help they have received, but they have received the advice and assistance and it is up to them to decide whether or not they will accept that advice.

Mr. Epp: I must say on a few occasions I have had some feedback on that, and they very much appreciate the kind of assistance they have been getting from the legislative counsel.

Mr. Chairman: The last one is the mandatory 10-year requirement as against the ministry's preference for what they

call a co-operative approach and trying to talk the ministries into constantly consolidating their legislation, rather than a mandatory requirement.

Mr. Mancini: I prefer the 10-year limit. Ten years is not a very short span of time. If someone has been bringing in parts and bits and pieces of legislation and has not done this after 10 years, he is really not being all that co-operative to begin with. I would suggest to the committee that this is a reasonable matter to support.

12:30 p.m.

Mr. Chairman: I think Mr. Taylor was not only favouring the mandatory requirement but even shortening the period of time down from 10 years.

Mr. J. A. Taylor: I certainly believe in co-operation; do not get me wrong. As you know, the government has many levers to assure co-operation. Let the record show laughter!

I am just saying that when you enlarge a time frame, there is an awful tendency to procrastinate. If the task is worth doing, I think every stimulus and encouragement should be given to achieve your goal as quickly as possible. It may be that some technical or financial assistance could be given by government. We do it all the time in planning matters.

If you get a public out there that really does not know what the laws are, it could be devastating. The city of Toronto is just a great example. You just cannot look at your general legislation and expect to take the city on or you are going to be clobbered. You have to hunt and find what the special law is that applies to the city of Toronto.

I think it is in the public interest to clarify that special legislation that applies to municipalities, whether it is the city of Toronto or some other municipality. I am just saying that in the case of the city of Toronto it is much more confusing.

Mr. Mancini: We could make it five years for the city of Toronto and 10 for everybody else.

Mr. Revell: I might just mention why I suggested 10 years. Believe it or not, we are almost halfway between official revisions already. The last one was in 1980. It is now 1983. In fact, for all intents and purposes, it is now 1984. We are six years away from the next revision. By the time this idea gets circulated throughout the municipalities--let us assume it is early January or some time in February--by the time they get working on it, they are looking at 1985; then you are only five years away from the new revision.

A lot of municipalities might prefer to wait until 1991 to get the project completed so that when it comes to all those external references that are contained in their statutes, they can bring them all up to date to coincide with the most recent revision. Thereafter, for the large municipalities that are

involved in private legislation on a regular basis, their official consolidations would be only about one year out of step with the most recent revision. I submit that once this has been done the first time, thereafter it will be an easier process to engage in.

Mr. J. A. Taylor: It is like the Revised Statutes of Ontario: at one time you did not have the computerization; I think now you can keep current. The consolidation would be a lot simpler than it once was.

Mr. Revell: That is what they keep telling us. We do not know yet.

Mr. J. A. Taylor: What I am saying is that there is a difference with the municipalities. I am harking back now to a role that I think you or somebody is going to have to play in this government. You just cannot accept what you are getting from the municipalities as the state of the law. You are going to have a job to do--and that may take a couple of years--before you can really use it. I just point that out to you as a caution, that is all.

Mr. Epp: I have been listening very carefully to what is being said here. I am just trying something on the committee, whether we should maybe look towards about seven years. I know you can start juggling years and there is nothing magic about seven over eight or something of that nature.

Keeping in mind what Mr. Taylor said earlier, I was wondering whether people may not do very much knowing that they have 10 years to do it. Thinking in terms of seven years, this might put a little more impetus into the whole consolidation. Then if there has to be an extension after that, if some of them cannot live with seven years, extend it for another two or three years. Then you may get it done by 10. If you say 10, I am afraid, particularly in view of what Jim said, a lot of them may not start for three or four years and say, "We have lots of time to do it."

I am just trying to get a consensus here, if people go for that. I cannot justify seven over six or eight or something of that nature. I am just trying to expedite things a little, and as long as we were moving in that direction it may be helpful.

Mr. Chairman: Mr. Epp, I think Mr. Revell is concerned about the Revised Statutes of Ontario coming out every 10 years; perhaps that is where he has the 10 years, so the municipalities can follow the year after the RSOs. It will make their job easier. They will have brand new RSOs to refer back to.

Mr. Revell: I can live just as easily with seven years or five years. Mr. Taylor has hit it right on in terms of there is going to have to be development of some procedures within our office and within other offices to deal with the review. Once it is done the first time, thereafter the problem will be eliminated.

Mr. Fleming: Perhaps we might be able to look at this on a different basis. There are perhaps half a dozen municipalities--Toronto, Ottawa, London, Windsor and several others--that have the

major volume of private legislation. There are a good many others that have very little. By approaching those municipalities with a proposal in the very near future to start on this project, it may be that by the time the 10 years, seven years, whatever, is up those municipalities will be well on their way to a consolidation rather than simply putting a 10-year clause on and, as Mr. Taylor has said, looking at this in nine years' time.

If an approach were made to these half dozen municipalities with the large volume of private legislation in the immediate future, it might be easier to get a handle on how long it would take. For the others with lesser legislation, five years may well be a reasonable time.

Mr. J. A. Taylor: They are better off without a cutoff date and to accomplish it through co-operation and stimuli.

Mr. Kolyn: You say you have about 5,000 private bills now. Of the 5,000, how many would these four or five municipalities have? Sixty per cent? Fifty per cent? Have you any idea?

Interjection: Eighty per cent.

Mr. Revell: Not that much. The city of Toronto, I am sure, has more than 200 pieces of private legislation. You cannot even begin to work out the numbers, because the city of Toronto has taken over the village of Forest Hill, the village of Swansea--goodness only knows what else it has swallowed up; well, we know about West Toronto and Yorkville. Believe it or not, there are pieces of legislation out there that were passed for those old municipalities and are still on the books. Unquestionably, the city of Toronto is going to have the hardest job to do in this whole thing.

Speaking of time frames, that is a very flexible issue. My rationale was just to allow them to get into step with the next revision, and allow a generous period of time, so the municipalities cannot say it is something that has been foisted upon them and they have to start on this next week or the week after.

Mr. Epp: Just for my own sake, would you clarify that revision which takes place every 10 years?

Mr. Revell: The RSOs?

Mr. Epp: How thorough is that? What all takes place? I think everybody else here knows about it, but I am just--

Mr. Revell: Starting in about 1979, when we were authorized by the Legislature to revise and consolidate the existing Statutes of Ontario, we took all of the 1970 RSOs--it means that we maintain updated copies of all legislation that leads to the production of those little blue office consolidations that you see--and the first thing we do is we go through and renumber. As you are aware, in something like the Municipal Act sections are dropped out, sections are added; so you get funny

numbering. All the numbering is adjusted so that every act will read from 1 to whatever is the last section.

12:40 p.m.

A review is also made to find those provisions which are now obsolete, and they are repealed by the schedules to the Revised Statutes. Mr. Donaldson has that here with him. Schedule A to the Revised Statutes sets out all the things that are repealed by the Revised Statutes. For example, if the Municipal Act was amended in 1974, we would have the 1970 act and that 1974 provision amalgamated so that both the 1970 act and the 1974 act can be repealed by the schedule and they then find their place in RSO 1980.

There are a number of things that are repealed because they are totally obsolete. For example, under the Municipal Act there may be something--I cannot think of where the Municipal Act would have them, but maybe the Municipal Act would have something like during the years 1975 and 1976 municipalities may pass bylaws to do X and Y. Obviously, in 1979 and 1980, when we are working on the revision project, that provision has no more application at law and it is eliminated. We also identify provisions that are not spent but no longer are part of the general law either.

A good example is that somebody remembered An Act respecting the City of Toronto, which I am sure is the only act that has had everything amended except the commencement provision. The long title, the short title and the main provision were all amended in committee. The Tom Longboat Act authorized the city of Toronto to make certain payments to the heirs of Tom Longboat. We did not know whether the city of Toronto had made the payments; so we left that as unconsolidated and unrepealed. There is a list, called schedule C, which shows all the unconsolidated and unrepealed provisions that go back to 1867 being the ones that we think are still in effect.

That is the process we go through. Sometimes provisions have to be changed a little bit, and the commissioners are authorized to do that. A good example was that in the Warehousemen's Lien Act there were certain references to old forms of personal property security like conditional sales contracts and chattel mortgages. They got missed somehow when the Personal Property Security Act was approved and the references to those acts became obsolete; the references should have been to references to the Personal Property Security Act. Certain adjustments were made in that legislation to reflect the intention of the Legislature that warehousemen's liens applied in certain situations to personal property security transactions. That is the kind of the process that goes on at the revision.

On the other hand, if something was badly drafted in 1975, it remains badly drafted in the 1980 revision. We bring the provision forward. If there is a typographical error in it, for example, the typo would be corrected, but we are not amending the substantive provisions.

Mr. Epp: For instance, there is one section in the Municipal Act (inaudible) and there are about 150 parts--

Mr. Revell: Making bylaws. Section (inaudible)--

Interjection.

Mr. Epp: Yes, right. It is all left out.

Mr. Revell: No, no. It is in the Revised Statutes.

Mr. Epp: It is in the Revised Statutes.

Mr. McLean: Mr. Chairman, I think a lot along the same lines as Mr. Fleming. I was wondering whether there was some way that the large municipalities, say those of 50,000, 100,000 or over, were maybe given five years and a time was initiated so they would be the first ones to do it. I think that would be a benefit, because some of the smaller municipalities do not have much and I would think that if we got the larger ones out of the road quickly, it would be a benefit.

Mr. Chairman: Is the consensus in the committee as to making this mandatory as against a persuasive basis? That is what we are getting down to.

Mr. Epp: I personally would prefer having a mandatory period some place in there, because otherwise you are going to have one or two municipalities just dragging their feet on it.

Mr. Chairman: So it is the consensus that it is a mandatory number of years?

Mr. McLean: I do not care whether it is five or seven, but I think 10 is fairly long.

Mr. Epp: Yes. I can go for five.

Mr. Chairman: Mr. Revell, does that give you enough to work on to work up a final draft?

Mr. Revell: I can work up a proposal for an amendment to the rules, based on five to seven years.

Mr. Epp: Al, I know you are trying to give them more impetus, but they are more complicated. Why would you give the larger ones a shorter period?

Mr. McLean: Because they should be doing it first. If you give them the same as the others, they are going to sit back and wait and they may not get it done. There should be room for extension, if necessary, but I would initiate, to start with, a shorter period of time to get on with it.

Mr. Fleming: If I might comment, we are just having a very quick look here. Our present proposal for amendments, in effect, consolidates some of the smaller ones straight away, because they have only half a dozen acts and they could get rid of them very quickly. So I do not know if it is necessary to give the smaller ones an extra two years or not.

Mr. Chairman: Okay. There is a consensus that it be mandatory on all municipalities.

Mr. Epp: Within a five- to seven-year period.

Mr. Chairman: Right. Thank you very much, gentlemen, for appearing before us. Also, thank you for your patience early this morning as we went through our ABC list.

We shall reconvene at 2:15 sharp this afternoon, in camera.

The committee recessed at 12:47 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
ONTARIO STATUS OF WOMEN COUNCIL
THURSDAY, NOVEMBER 17, 1983



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Cureatz, S. L. (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Runciman, R. W. (Leeds PC)

Substitution:

Piché, R. L. (Cochrane North PC) for Mr. Runciman

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher

From the Office of the Deputy Premier:

Carr, G., Executive Director, Women's Directorate

From the Provincial Secretariat for Social Development:

Barnes, S., President, Ontario Status of Women Council

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, November 17, 1983

After other business:

11:08 a.m.

ONTARIO STATUS OF WOMEN COUNCIL

Mr. Chairman: I guess Hansard is set up. Ladies and gentlemen, appearing before us again is Sally Barnes, the president of the Ontario Status of Women Council, and Glenna Carr, the executive director of the women's directorate.

Ladies, we have a unique situation here and that is why we have asked you back, Ms. Barnes. We decided last year on the agencies, boards and commissions we would interview and, in the interim, we had the creation of the new ministry and the secretariat. Keeping in mind that our mandate is, among other things, that our reviews be made with a view to reducing possible redundancies and overlapping, we tried to prepare a draft report about two weeks ago.

We started on our draft report of the Ontario Status of Women Council and we found that we needed clarification of the objectives of the two bodies, if I may call them two bodies, and their comparative fields of operation. We found ourselves, frankly, without enough information from which to draw our own conclusions and make our own recommendations, so we have invited you here today to help us in our understanding.

We understand you each are very pressed for time, you only have half an hour, so we have agreed to keep our questions very brief. It is the 10th anniversary, is it, of the status of women council?

Ms. Barnes: This year. There is a function this evening.

Mr. Chairman, my time is okay now; I have just rushed from two other things. I understand that Glenna has to be somewhere at 12, but I am fine now on time. I was just warning people that I might be late getting here but, now that I am here, I am fine.

Mr. Chairman: Yes, we understood, and we thank you very much for putting yourself out to assist us.

The committee has agreed, as is not their custom, to keep their questions very short. Maybe if we have a short question and answer period we can cover the field and give everybody as much of an opportunity as possible to participate.

Mr. Rotenberg: Mr. Chairman, a simple question to both of them really is: is there some clarification as to the duties of

each of your bodies, how you interrelate, what each one of you will do and how you are going to avoid duplication?

It is my understanding, Sally, that some of the things your group has been doing, Glenna's group will now be doing. Have you yet worked out between you, at least philosophically, what each of you is going to be doing? Either or both of you might want to answer that.

Ms. Carr: If I might lead off, the women's directorate has been operating on the basis of an interim budget and I guess you could say an interim outline of our role and operational mandate.

The Minister responsible for Women's Issues (Mr. Welch) has commissioned an organization study which is now being conducted by a consulting firm. It is reviewing the role of the mandate, the structure and the resources of both the women's directorate and the Ontario Status of Women Council for the very reason that, when the women's directorate was created at the end of May this year, a number of old bodies and organizations, together with some new roles and a new mandate, if you like, were put together.

Whenever that is the case, of course, the question is asked, as you were asking today, how can we ensure that the roles and responsibilities and resources devoted to those are clear, well defined and not overlapping. So if I could just, very briefly, describe what the women's directorate has been doing and how we have been keeping in touch with the status of women council to avoid overlap or duplication, perhaps that would assist.

11:10 a.m.

The women's directorate, in the summer of this year, inherited or had transferred to it from the Ministry of Labour two existing branches. One was the women's bureau, which celebrated its 20th anniversary this year and has always dealt with women in the labour force, primarily in the private sector. The staff and the resources and the responsibilities, the ongoing operations of that branch, were transferred over from the Ministry of Labour in July.

Also transferred was the women crown employees office which, as you know, co-ordinates the government's own affirmative action efforts for crown employees and those are now part of the directorate.

The new or additional functions, of course, that were mentioned by the Premier (Mr. Davis) and by Mr. Welch in announcing the establishment of the directorate are the whole spectrum of women's issues and policy co-ordination and the communications function. So now the mandate has been made more far-reaching, if you like. It deals with things that are also in addition to women in the labour force.

The status of women council and the women's directorate have been keeping in touch in a number of ways. One, we both report to Mr. Welch, who is the minister for women's issues, and the

minister, the president of the status of women council and I have met on a number of occasions to clarify who is doing what and to discuss what particular issues the women's directorate might be working on and which particular issues the status of women council might be working on. So there has been co-ordination and direction from the minister responsible.

Second, Ms. Barnes and I do talk to each other and meet periodically to keep each other up to date. Also the minister and I have met with the Ontario Status of Women Council--all its members. I have attended two of their meetings and the minister attended a meeting in August. So we have kept in touch and tried to stay out of areas of development that the other was working on.

Naturally, there are some common issues that are being worked on by both groups.

Mr. Rotenberg: This report that is being done on your makeup and so on, when do you think that might be ready?

Ms. Carr: It will be a Christmas present. We are expecting the report to be tabled just before Christmas.

Mr. Breaugh: We will have equal pay in the legislation by late this afternoon, I am told, so your job will be easier.

The committee wants to, I think, recommend a strengthening of the resources that are available and the role that is played by the council. One of the small problems we have, though, is what will the ministry's role be in that.

I would like to ask Sally if she is comfortable with the notion that a recommendation to strengthen substantially the role played by the council, the resources allocated to it and, frankly, the usage of the council, will be received--I am sure you would be happy with it in just kind of a theoretical sense--in a practical sense, if we put together recommendations which say to the government: "We really want an independent body here. We want them to have resources. We want them to do the kind of job, for example, that the--soon-to-be-changed in name--Manpower Commission has."

For practical purposes, is that going to do much good for you?

Ms. Barnes: I think so; I think everything helps. I am very confident that the study to which Glenna refers will come down on that side. I believe the people I have dealt with already are very highly intelligent people and I think our members, and others with whom they have spoken, have been very honest and expressed some of the frustration all of us--I think every member of the council--feel.

What I tried to say to you the first time I was here was we are looking for direction as well. So I am very optimistic about what the report will be come up with regarding the council. I think it, too, will recommend great improvements.

If this committee is to do the same, and of course our own council has suggested that this year is very appropriate, the 10th anniversary, to look at where we have been and where we are going.

So yes, I would urge you too--I was hoping that maybe that was the message I got across to you when I was here last, to say we need a direction. We need to know where you people think we should be going. I think it all bodes well for the council.

Mr. Breaugh: I have one final question then. There is a little bit of hesitancy on the part of some members of the committee that we want to avoid, if we can, overlap. I would take the point of view though that, overlap or not, what I want is an independent group, outside of the ministries.

I think there are lots of valid perspectives on this and it would not bother me a whit if the ministry had its staff doing whatever it wants to do and, concurrently, we had an independent group doing much the same kind of work, giving us two different perspectives on the same issue.

I would like to feel comfortable that the council itself would accept that notion and not back off and say, "We do not want to study that because some ministry person is studying that as well."

Ms. Barnes: Certainly I would just speak personally. I can assure you that is no danger. It seems to me that is the role of the council. It will continue to be an advisory body in a very independent way. I do not think there has been any suggestion that would change.

I think sometimes we will overlap, but I think in a different way. There is no doubt in my mind, on equal value--I will bring that subject up before you do--Glenna and the women's directorate can be working very hard in one way on that whole subject within the government, working with people in the Ministry of Labour and other places.

Our role, on that subject and others, is at the same time to be doing independent research. I think we can do things on that subject and others where what we come up with will be more valuable in the long run because it will be seen as independent research. The more time I spend on the council, I am beginning to think maybe the primary purpose in the long run might well be the hard research we come up with. It will be credible because it will be independent.

As an example, on February 3 and 4 we are having a two-day conference on equal value. You will not agree with me on this, but there is an absolute lack of good research material on that subject. There are those who argue the case, but when you ask them for research--believe me, because we are now trying to put together our two-day program and trying to find experts on that subject. We need more research on that subject, on the whole Employment Standards Act.

That is the kind of thing we can do. It will be a two-day

open forum at which the subject will be discussed objectively. If the women's directorate held the same kind of thing, it would not be seen as objective. That is one role I see the council playing.

Mr. Breaugh: Just as a final comment, there are those of us on the committee who want to put a pretty substantial challenge to you, that whether you like it or not, we want more from the council. We want more substantive work done by them. We want a much larger role for you to play.

I do not think we are talking at cross purposes here. I think we are arguing about our approaches to things. I think one of the prime recommendations that I would like to see in our report is that there is a job to be done, which is not happening. We think the council is an ideal group to take on a portion of that job and that they ought to get the resources to do that.

We are raising expectations. You may be uncomfortable with some of the things we would expect from you, but we think that if we are going to have an advisory council on the status of women in Ontario, that job has to be done, whether people are comfortable with that role or not.

Ms. Barnes: I do not know who would be uncomfortable. I do not know what you are suggesting, so I cannot tell you the level of "uncomfortability."

Mr. Breaugh: You worked for Bill Davis for too long. You do not learn that at Napanee high school, I will tell you that.

Ms. Barnes: I think you might be talking to the wrong person about "uncomfortability," however. I think you will find that the council will perform in direct proportion to the amount of resources and talent that it has, quite frankly.

That is why I repeat what I tried to say the last time I was here: tell us what you want done and give us the funds and the mandate to do that, but do not raise expectations. The expectation is already incredibly high in this province.

I travel a lot and people say, "What are you doing about this and this and this?" I say: "Hold it. We are an advisory council with \$170,000 at our disposal. You have a minister responsible. You have MPPs to represent you. You have a women's directorate. Keep in mind what our mandate is and our resources." I just leave it at that.

11:20 a.m.

Mr. Epp: Let us just get back to that for a minute. You have limited resources, but you also mentioned you want us to tell you what we want.

The Legislature has unanimously approved a resolution with respect to equal pay for work of equal value. How has that impacted on you people and what you are doing, aside from the conference? I suppose your key speaker at the conference is going

to be Sheila Copps. She is the proponent of that, so I imagine you will have Sheila involved in that.

Ms. Barnes: We were going to keep this quite nonpolitical actually.

Mr. Epp: How can you keep it nonpolitical?

Ms. Barnes: You would be surprised.

Mr. Breagh: It is a nonissue then.

Ms. Barnes: I am sorry, what was it?

Mr. Epp: How has that resolution that was unanimously adopted by the Legislature impacted on what you are doing with respect to equal pay for work of equal value?

Ms. Barnes: I do not think it has impacted that much because the council was already on record as approving the concept of equal pay for work of equal value. I had written an open letter, as you know, to Mr. Welch, urging him, on behalf of the council, to urge his government colleagues to, in fact, do exactly what they did--not that our letter was the thing that pushed it over the edge or anything.

I do not know what you mean by asking how it affected us.

Mr. Epp: Now that the Legislature has taken the leadership on it and you are saying that you want us to tell you what we want done, what kind of impetus has that given to the council to try to have that particular approach enshrined in legislation?

Ms. Barnes: Quite frankly, I do not think that particular day had that much effect on the whole situation as far as we are concerned. As I say, I think we were ahead of the Legislature on that issue. We had already decided the role we could play in this whole thing, which has become, unfortunately, very polarized, was to make people better informed on the issue so that, in fact, progress could be made.

We had decided before that private member's resolution discussion that we would go with the public forum--that that perhaps was our role, to bring together all these groups and say: "Okay, let us talk about this. Let us decide as a council where we go from here." We had done that before the resolution by the member for Hamilton Centre (Ms. Copps), I am afraid.

Mr. Chairman: Thank you. Mr. Johnson.

Mr. Epp: Just one moment. Let me ask one more question. Then I will have a question for Glenna Carr.

with respect to that particular issue. I am not quite clear as to where you are going to go and what you are going to recommend. Maybe you can help me.

Ms. Barnes: No, sir, I cannot help you on that.

Mr. Epp: I know that you are now saying you are supporting it and you sent a letter out to that extent. What recommendations are you making on changing the legislation so that it is going to be not only a philosophical concept but is going to be put into operation?

Ms. Barnes: I cannot tell you. That is why, at great expense in terms of our budget and great effort in terms of our staff, we are pulling together the best people in the country on that subject for a two-day conference on it. We are inviting members of the Legislature and other people to attend and say, "Here for the first time that I know of, that I can find out, we are going to bring some experts together and we are going to talk about this thing, how you do, in fact, make it work."

We have invited people, or are about to, from the federal government and the government of Quebec to say: "Okay, let us talk about this. Let us look at your statistics. How many cases have you had? Were they equal pay, as some say, or were they equal value? Let us look at how you have actually been able to tackle the wage gap with the use of this."

That is why we are holding this conference. After it the council will meet and say, "Okay, where do we go from here?"

I think there is a lot we can do on the whole Employment Standards Act. I just wonder whether we are putting maybe too much emphasis on this one hammer, which is what it is--it is a hammer to tackle part of the overall problem.

I think we have to strengthen the equal pay laws as well. We are just trying not to be tunnel-visioned and go in this one direction. What we are trying to do is put together a package of recommendations to the government and say, "Yes, equal value, but heavens, let us look at the other things as well, the composite test, all the other inequities that now exist in the Employment Standards Act," of which there are many, in my view.

Mr. Epp: Just one more question, Mr. Chairman. You alluded to the study that has been going on and your hiring a consultant to do this. First, who is the consultant? Second, what is the mandate for the consultant?

Ms. Barnes: It is Touche Ross and Co. They were the successful candidates in the request for a proposal. The mandate is to review and make recommendations to the minister on the role, the structure and the resources of the women's directorate and the Ontario Status of Women Council. That is a short form of what they have been asked to do.

Mr. Epp: And you expect to have that available to you--

Ms. Carr: They have been asked to present their report just before Christmas.

Mr. Epp: What is that study supposed to cost you?

Ms. Carr: We went to Management Board for approval. They set a ceiling of no more than \$30,000 for the study. It will involve interviews with quite a few people and we have also asked them to look at what is being done in other jurisdictions for comparable advisory bodies or staff bodies. So they will be researching that.

When Management Board sets a ceiling, you cannot go beyond that, but I cannot tell you at this point what it will actually be. It will be less than that.

Mr. Breaugh: You should have gone to Gordon Walker. Play it by Gordon's rules.

Mr. J. M. Johnson: I would like to refer back to the comment that was made by Michael, I think, who is concerned about an overlap in the jurisdiction of both bodies.

I would think--and some have mentioned it--it would be beneficial to have two approaches to the same subject. I see in this one report that we have that, for example, a study of equal pay for equal value legislation was completed by a summer student.

Now surely we would have to do a more in-depth study than that to determine an issue of that magnitude, and I would think that if both groups were zeroing in on that particular subject we would be better served by that device, would we not?

Ms. Barnes: I agree with that, Mr. Johnson. I think that is a fairly good example, to which we have already alluded; we can take a different approach or take a different part of the total picture and go in that direction with it.

At the same time, I guess as a taxpayer I understand the concern about overlapping as well. But I do not think you can have it both ways. I do not think that on the one hand you can say, "We want an independent council" and on the other hand say, "You have to check with the women's directorate on everything to make sure you are not overlapping."

I think you have appointed very responsible and committed people to the Ontario Status of Women Council and I think you have to trust their judgements on these things, that they have to do what they believe is right in the whole thing.

Mr. J. M. Johnson: Your committee was considering the possibility that the president of the Ontario Status of Women Council be a full-time position. Does that shock you?

Ms. Barnes: No, I think it is a full-time position, for all intents and purposes. The council has recommended that it be made officially so.

I have already spoken with the Touche Ross people and have told them that I believe it should be as well. If it is not possible during the time that I plan on staying on the council, surely my successor should be someone who is hired at a decent salary. I think it is very unfair to expect someone to take on

these responsibilities under the present financial terms. It really is grossly unfair.

Mr. J. M. Johnson: Just for clarification, maybe I can obtain some information.

It seemed to me that I saw a statistic a short while ago that showed the employment rate of the three different groups; male, female and students, or young people. It seemed to me that the female chart was best--there was more increase in jobs in that category than in the other two. Is that correct?

Ms. Barnes: Possibly so, but they are not very good jobs.

Mr. J. M. Johnson: This is the latest.

Ms. Carr: More women are entering the labour force, so the rate of increase or entry into the labour force is higher for women than for men. But I do not know if you are referring to just numbers entering the labour force.

Ms. Barnes: I think the tragedy, Mr. Johnson, is that the growth, as you know, in employment situation is in the service industry, like fast food type of things, where the pay is very bad. That is why the gap between men's and women's salaries is actually widening.

So while more of us are flooding in to the labour market, we are still getting very low wages and a lot of it is part-time work; 23 per cent of women work part-time with no fringe benefits. It is not a happy situation.

Yes, more of us are working, but the bad news is that it is for very bad wages and under not awfully good working conditions with little hope of advancement.

Mr. Cassidy: I have a couple of questions. The first one relates to resources and is directed to Sally Barnes.

In New Brunswick, I believe, the status of women council has a budget which is more or less equal to the council here in Ontario, and in Quebec I think that it is seven to eight times as great.

11:30 a.m.

You are indicating that you think the council can do more, given adequate resources. Could you give some indication of what that might be, whether it is the Quebec level or somewhere in between, or whether in fact it is purely lack of resources which has held the council back from doing some of the things you think now it should do?

Ms. Barnes: It is the reverse. I think it is a bunch of factors that have led the council to do what it has done and lack of resources, part-time chairmanship and a limited staff are just some of the factors involved.

I am not so sure that the demand has been there. Whether it is lack of initiative or lack of demand I do not know for whatever reasons. I think it is a bunch of them.

As for the New Brunswick situation, that is a world unto itself. You could not repeat that here. The chairman of the status of women council there is a deputy minister, has deputy minister status in the government--talk about being objective. But somehow they are able to do that there. She is very political and at the same time she is head of the status of women council.

Mr. Cassidy: Does she have other responsibilities?

Ms. Barnes: No, but she has deputy minister status and so it is a strange operation. They have been very successful, they really have.

The Quebec one, of course, is different altogether. It runs the whole gamut from not having any advisory council in Alberta or British Columbia to that large budget in Quebec.

I think what we are doing here can work. I think we can have the best of both worlds in this operation with the women's directorate and the status of women council if we can get good funding, adequate funding, for both of them.

Mr. Cassidy: In the original mandate for the council, going back to 1979, which is to evaluate existing legislation and identify areas requiring attention, to consult and advise and that kind of thing, is there any part of that mandate which in fact is superseded or overtaken by the creation of the women's directorate, in your judgement?

Ms. Barnes: No, I do not think so. I think in personal terms I am just so pleased the directorate is there because now there is somebody within the government--the deputy ministers' council and all of those other important internal organizations--where there is a voice within the government.

Now there is a voice at the cabinet table. Glenna Carr is there with the senior bureaucrats, reminding them all the time to bring things together. The Interval House announcement was a perfect example. I have every reason to believe that that might not have been as successful as it was had it not been for the women's directorate and the work of Bob Welch in that whole thing. I really believe that to be true, and I hope that is an example of things to come.

There is a voice there now pulling these things together, acting as a catalyst among the ministries, whether it is high technology--the directorate is sponsoring a series of conferences; those things are happening. They might not be happening as fast or in as great numbers as we want, but there is movement. There has been definite progress since this directorate was set up.

Mr. Cassidy: A third and final question would perhaps be better put to Glenna Carr than to yourself and that is the question of independence. As you have said, you have been meeting

together with Mr. Welch and you had some consultations between the two of you as the heads of the two agencies. That is a very close and perhaps unusual relationship compared to the kind of thing you would normally see with an independent outside body.

I am not necessarily criticizing that. I am just asking how do you, in fact, manage and what ideas you have got for ensuring that there is independence as far as the council is concerned, yet at the same time in many cases your interests will overlap and you will, in fact, not want to be duplicating things because you want to use your resources to the best effect possible?

In other words, if the status of women council is doing something, then perhaps the directorate can lay off in that area and get on with other things, or vice versa.

Have you thought through that question? Have you got some suggestions or initial thoughts on how to resolve it?

Ms. Barnes: You are asking Glenna, are you?

Mr. Cassidy: Glenna first, yes, and then yourself.

Ms. Carr: Yes, we have done some thinking. I have done some thinking on it and I guess I will be looking to the results of the consultants' study to further assist in clarifying those things.

I think there is no doubt in my mind that some issues need all the attention they can get, whether it is from an independent advisory body or from the women's directorate working from within the government and working with the various ministries and so on and making recommendations to the minister. I think improvements in equal pay and improvements in employment standards legislation are obviously among those.

Various efforts to improve our affirmative action program is another. The issue of family violence is one we flagged early on, after the creation of the directorate, and have been working on. I know both the council and the directorate have looked at things like family law reform. We will, no doubt, both continue to work on those very key and critical areas.

I agree with one point that Sally made and that is that we bring different perspectives to these things. We try to inform ourselves, in the directorate, to do some research, to make policy recommendations, or communicate information.

We are also very aware of the fact that we are not a line ministry. We are not delivering programs. We do not have our own legislation. Those are rightfully in other ministries.

If it is labour legislation, we work with the Ministry of Labour. We make suggestions to them. We work with them in looking at the impact of potential changes on their policies and legislation as they affect women. We have an internal catalyst role in that regard and an analytical role as well.

I think there are areas that need a lot of attention and effort on both the outside, through the council, and inside. I have mentioned a few. I think there are obviously others. Pensions is another area.

Mr. Cassidy: In essence what you are saying, then, is that when you both draw up your list of priorities, those priorities are going to be important enough that there is no point in yielding one or two of those priority areas to the other party. You both are going to have to work on them. Since those priority areas on your lists are going to be similar, you probably should both keep working on those priority issues. Is that right?

Ms. Carr: In some cases there are going to be similar priorities, but we might do different things about those priorities.

Mr. Cassidy: Understood.

Sally, perhaps I could ask it of you in this way. Are there some specific ideas you might have, with respect to the appointment process to the council, in order to make it more independent and seen as more independent, given the fact that there is always a danger that the council could be seen as being too much in (inaudible) with government, particularly since there is close contact between the council and the directorate?

Ms. Barnes: I think that will always be a difficult thing to do. That is one of the things that Touche Ross is looking into. They were speaking with at least five members of the council, and all three past presidents of the council, to discuss such things as membership and I will be intrigued with what they come up with. It is not easy.

Some of the women's groups have suggested they would like to appoint to the council. That sounds good, except I start thinking, "Does that mean, then, that they could not express an independent view; they would have to be speaking on behalf of their group?" That is the downside on that.

I think that is intriguing, and I think it deserves a lot of consideration. But I do not have an answer, no.

Membership on the council will continue to be difficult, in my view. People are appointed for different reasons, and it will never be easy. One of the concerns I have now about the women's movement is that I see it becoming dreadfully polarized.

The good side on that maybe is that perhaps we are being forced into--that is going to be our role, to try and, between the two polarized groups, come up through the middle, and take approaches to try and bring those two groups together, to try and get across the basic message--I think there is a basic message--that we have some differences on how we would approach these various issues but our intent is the same, our goal is the same.

I see, perhaps, the council emerging--as I see this polarization taking place--as the catalyst in that whole action, outside, as in fact Glenna Carr's directorate is the catalyst inside the government.

Mr. Chairman: Is that it, Mr. Cassidy? Mr. Watson.

Mr. Watson: I would like to raise another example, perhaps, and ask you how you would handle it, rather than maybe what each of you would say.

11:40 a.m.

There is considerable discussion these days on pornography, in terms of the human rights of women who are mistreated in films for whatever reasons, that aspect. It is an issue that I know women in my area are concerned about.

They are concerned because it is is a human rights type of issue, but it is primarily a women's issue. Given that issue, and what we are looking at, what would the mandate be for each group in terms of where you might overlap?

If that is an issue, and you must have thought about it, how is each of your groups going to tackle that? How could you tackle that issue in terms of administration, rather than getting into the issue of pornography itself?

Ms. Barnes: I do not know. You say we have obviously given a lot of thought to that. We have not, quite frankly. Right now we are on equal pay, and we have just come off pensions--

Mr. Watson: I am biased, but I happen to think that the issue of pornography is perhaps more important than this equal pay value thing that some people are all caught up in.

Ms. Barnes: I do not prioritize in that way, Mr. Watson, so I cannot agree with you that one is more important than the other, because they are quite different. They are both important.

Mr. Watson: It depends how you determine value, doesn't it? Let us stick with my point.

Ms. Barnes: I do not know. I would have to give some more thought to that question.

Mr. Watson: Is it not an issue that the status of women council should look at?

Ms. Barnes: Hey, it is a major issue in society and with us. We have not had the time or the resources--it is on our spring agenda to spend one or two full days on it and getting into the whole subject, and seeing where in fact we can contribute to that issue.

I do not know. I was impressed as everyone else was with the judgement of Stephen Borins about three or four weeks ago now,

which shows that if our current laws are equally enforced and if good judges make good decisions we have come a long way.

But, what specifically the council can do, I do not know. I will be honest with you at this moment; I do not know what our role will be. I have mentioned it in most of my speeches to try and raise the level of consciousness on the issue, but what specifically we can do, I cannot help you with that this morning.

Mr. Watson: What about Glenna Carr? Would you like to comment from your point of view? What are you doing about this?

Ms. Carr: In our various discussions with all kinds of groups and individuals, and so on, and in research we have done over the past five months since we came into existence, we recognize that pornography and the violent depiction of women in the media is an important issue. It is one that we have on our list to deal with.

I think at this stage what we have been doing is starting to do some basic research. When we established the position last week, when the minister announced to the House the creation of the provincial co-ordinator for family violence initiatives, I guess it was in the back of our minds that there is some linkage--and this has been shown through research and so on--between pornography and violence against women, sometimes in the case of battered wives.

We are beginning to examine the issue of pornography more fully, so we would be at a very early stage too. All I can say is, we know it is a very important issue to deal with. We are starting to look at it. We have not yet determined how we are going to approach this particular issue.

Mr. Watson: Okay. In terms of how you would operate then, would you through your secretariat make recommendations to say, the Minister of Consumer and Commercial Relations, who is in charge of the censor board to recommend that videotapes be subject to censorship? Let us just take that as an example. That would not be your legislation. You say you do not have any legislation. You have to do that through the ministry which administers whatever it happens to be.

Let us suppose, if you came to the conclusion that videotapes should be subject to censorship, how would you as a directorate plan to handle that kind of an issue within government?

Ms. Carr: With any issue that comes up, and we can talk about pornography specifically, we look at what is the jurisdiction, or the ability to influence, of the provincial government, which is where we are located.

Of course, with an issue like pornography, you have the federal Criminal Code and the Canadian Radio-television and Telecommunications Commission. We would first go to the Attorney General (Mr. McMurtry) and see if he had communicated with the federal government. We did that and we found that Mr. McMurtry had

written to Mr. McGuigan and so on. He made various recommendations regarding the Criminal Code.

Second, we would look at, as you say, the role of censorship at the provincial level and talk with the Ministry of Consumer and Commercial Relations and possibly make recommendations through Mr. Welch to the Minister of Consumer and Commercial Relations (Mr. Elgie) or we might work with the staff there to develop some guidelines or whatever the case might be to do some basic fact finding initially.

There is also the issue of how important it is on the public's agenda. How much does the public know about these things?

That, indeed, might be an example of an area where the council might have a role. As Sally said, she is doing a lot of public speaking. She has the opportunity to raise these things in the public agenda, if you like. So we might discuss whether or not there was a role there.

Mr. Watson: Then is it--and again I am trying to set out the difference between it--is it, in its simplest form, up to the status of women council to say, "Here is an issue; this is an important issue," and then it is the directorate's job to find out how to resolve that issue within government? Is that too simplified?

Ms. Carr: I think that, as Minister responsible for Women's Issues, Mr. Welch has the council suggesting issues and various other bodies as well, the directorate too. If the status of women council decides that something is an issue, at this point they can raise it with the minister and decide the best way to proceed or make recommendations to him about the best way to proceed.

They may indeed want to do a brief themselves, and have done that in the past, or they may suggest that recommendations and further work be done by Ministry XYZ or by the directorate.

Mr. Watson: I guess this is where we are getting into whether or not the Ontario Status of Women Council should recommend how something should be resolved in terms of government programs or whether they should stop short of that.

I realize it is a continuum, it is pretty hard, but in basic philosophy, should the council stop short of saying, "Here is the way that you administratively do that in government"? Because if you have the people out there representing society, society in general sometimes does not know the best way of doing it.

If we get back to my pornography example, you raised the issue that it should be done, whether it is done via the Criminal Code or whether it is done by a censor board or whether it is done by some means that has not even been suggested yet. Which one of you has that basic duty, or maybe you both have?

Ms. Barnes: I think we both have. I would not be satisfied to sit back and say, "We have to do something about

XYZ." I think the council has a responsibility with public funds to do the research to make the suggestions.

I guess in a very personal sense, I have been around government long enough to know that you cannot just say, "Do something about this." If you come up with an ironclad case, and if you can possibly come up with the price tags as well, you are more apt to win your battles.

I think one of the problems with the women's movement over the years has been to make its argument on the basis of moral arguments and I think you have to make them in political arguments as well and do your homework. I think the more homework we do, the more battles we are going to win, and that is why we are talking about research and that is why we are talking about money here today.

You cannot generalize, Mr. Watson, but in personal terms, we are certainly not just happy to sit back and say, "Here is the problem, do something about it," because too many other groups are saying that. We think our responsibility goes farther than that.

Mr. Watson: I guess my conclusion and one of the reasons why we have had you back today is to find out whether there is any clearcut division so that overlapping in terms of these things can be prevented. What you are saying is no.

Ms. Barnes: That is right.

Mr. Watson: They have to overlap and we will simply have to trust you to do the best to see you do not do the same thing twice, but the issues and the resolution of the issues are going to have to overlap.

Ms. Barnes: I believe that is true and we have different approaches to the same problem. I think the only guarantee that you have is that you will continue to appoint to the council responsible people who do take their responsibilities and the use of public funds very seriously and will go out of their way to make sure that those funds are used wisely and well and will not duplicate.

11:50 a.m.

All of these issues are so complex and require so many approaches that there shouldn't be concern about just two of us. There are hundreds of groups out there approaching these problems and I think that the more of us who get involved in them, that is when the battle is going to be won.

Ms. Bryden: I think the question of independency of the council from the directorate is an important one. It is very difficult to establish it when you do overlap to some extent in the work you do and the budgets do affect the kind of work you do.

I am glad that you emphasized the need for research by the council, but what do you consider the importance of the three functions that I take it the council has? One is consultation with

women's groups, the other is research and the third is advocacy to the minister in charge of women's affairs or to the government. Which of those three do you consider you should put the most of your resources into?

Ms. Barnes: I wouldn't even begin to try to prioritize them. In terms of resources do you mean money?

Ms. Bryden: Yes.

Ms. Barnes: Again, they overlap. When you talk about advocacy to the minister, they are all interrelated, I think. I do not think that you can list those one, two, three. They are all important.

Ms. Bryden: Do you think the present funds allow you to do all of those three functions?

Ms. Barnes: Of course not. In a very limited way, sure.

Ms. Bryden: Do you have any target as to how much the funds should be increased--doubled, tripled or whatever?

Ms. Barnes: No. Actually I think said the last time we were here, give us a half million. We could very easily spend that. We can have great research going in a lot of things.

I do not have a budget for you. I know that the consultation we are holding in February on equal value is going to be costly. I do not know what it is going to be worth. We are putting that budget together now. But these things do cost money. There is no question.

Ms. Bryden: You speak of the council as being a catalyst to get action on things on which you have had reports and consultation. The battered wives seems to me a case in point--that the government has brought out a response to the report of a year ago on battered wives.

But the interval houses are still saying: "When is the money coming? When are you going to change the per diem so that it is paid according to the number of beds and not according to the number of residents? In other words, when are we going to get stablized funding and when are we going to see the houses that are in difficulties getting some grants?"

This seems to me a catalyst job and I am just not sure whether the council does this or whether the directorate does it and sees that things happen in that area when people are saying that we have been promised that things will happen, but so far, they haven't.

Ms. Barnes: I think it is another example of where we both do it, quite frankly. I think that I am doing it as I did it this morning in a speech and one very late last evening and another one tomorrow where I talk about child care to the public. I go out of my way to talk to those who are kind of negative on the subject and I say: "Talk to your MPPs. Talk to the other

women's groups, talk to other mixed groups and have a better understanding of the needs of child care in this province." That is how I can do it at the same time as I can, in an advocacy way, talk to Mr. Welch. Our council is on record as supporting more childcare and better funding. That is what we can do internally and let Glenna speak for herself. She can work with the other bureaucrats to try to find that money. That is what we are talking about, isn't it?

Again, it is a complex problem that requires attacks from many directions and I think we each have our role to play.

Ms. Bryden: Glenna, could you indicate how your directorate can act as a catalyst to get things happening in, say, implementing the promises in the battered wives response?

Ms. Carr: When Mr. Welch appointed the provincial co-ordinator for family violence initiatives last week, he mentioned that the position would be in the office of the Deputy Premier and the women's directorate. That person will be chairing a steering committee, which is composed of, I think, about eight or 10 different ministries, all of which have a stake in making things happen in assisting victims of family violence, whether it is transition houses, law enforcement, multilingual services, or whatever it happens to be.

Jill Logan is co-ordinating that steering committee. She will also be meeting with the federal government to develop better stable funding, etc, with the Ministry of Community of Social Services and federal representatives.

We will be involved from that point of view. We will be monitoring the funds that have been assigned to assist the transition houses.

Ms. Bryden: It seems to me that the liaising with the ministries and with the federal government is going to take a very long time. People are expecting some immediate action from the Ministry of Community and Social Services.

I am not satisfied with the initiatives that have been taken to provide 12 family service centres in the north. You seem satisfied that that indicates that there is some movement to provide more shelters, but family service centres are not really fully qualified interval houses. There is no action to provide new ones for immigrants or francophones that we know of, in southern Ontario, or wherever they are needed.

Ms. Carr: I do not believe I said anything at all about the family life resource centres.

Ms. Bryden: No, I think Ms. Barnes did. She talked about the new initiatives in the--

Ms. Carr: I see. I think there are a number of new initiatives under way as well.

The allocation of up to \$4 million that was recently

allocated for existing transition houses, the Ministry of Community and Social Services is contacting all of those transition houses and asking them to provide it with their budgets for this year and make their problems known to it. We will be involved in assessing the dimensions of those problems. I can assure you that every effort is going to be made to assist those existing houses.

There is also the need to look at additional facilities. That will be part of our discussions with the federal government.

Ms. Bryden: I think the problems have already been made known to them so what we are really wrestling with here today is what the role is of each of these bodies in getting action on these problems.

Mr. Chairman: Mr. Breagh, you have four minutes left.

Mr. Breagh: I will be quick then. Much of what we talked about today is to try to establish a group, whether it is the ministry group or an advisory group, who will put an end to the kind of cool-it, stall process that has been at work so far, where an issue is raised, people take positions on it, but the ultimate effect is that nothing happens because it is said it needs to be studied further.

Are you both comfortable in assuming a role, which is not going to be an easy one, that says, "We will have the conferences, we will discuss this, that and the other thing, we will read on and we will publish a report but, in the foreseeable future, we will seek a resolution to a problem, whether the problem is pornography, equal pay, or whatever"?

That is the position this committee is going to put you in. When we say we want your role strengthened, we are going to take away the old arguments about not knowing, about not having the research, about not being sure whether equal pay should be legislated or not because no one has data on that. What we are attempting to say, I think, and what we will shortly say, is that little gap in there which has forestalled action for so long is about to be filled.

I would like to know, from both of you, are you comfortable in that?

Ms. Barnes: It sounds to me that you are creating a miracle, Mr. Breagh.

Mr. Breagh: I would be satisfied with a modest gain.

Ms. Barnes: So would we, quite frankly, but do not expect miracles. I guess that is my final word to you.

No matter how much money you are going to pour into this, or how you are going to change the way the people are pointed, we will still be human beings and we will not be able to come up with instant answers either. Let us be honest with ourselves there.

The role of the council, as I said earlier, will always be difficult.

Ms. Carr: I have been working in the area of improving things for women for over 10 years, either professionally or through my volunteer activity. With any major change--and this is a very major social and economic change of a group that makes up the majority of our population in this province--you are going to require continuous, prolonged and multiple efforts to bring about the results that are, I think, our objectives in this room, which is justice and equity and fairness.

I am in it for the duration. I would like to see gains. I would like to see gains over the long term that are going to be best, appropriate and effective. I would like to see gains for the woman in the home who is not working outside the home but is working in the home, for the elderly, for the young, for women in the work force, for girls coming through the educational system, and so on.

These kinds of things take a great deal of effort coming from many directions. I do not think we will be able to say everything has been achieved in six months, a year or five years. But I would like to think that this group may come back together, say in a year's time, and see some definite differences.

Mr. Breaugh: Okay. As a final comment: this afternoon I am going to vote on a piece of legislation which calls for legislative equal pay provisions. I do not have the opportunity to go off to conventions for six months, or whatever. This afternoon my constituents expect me to be there, for starters, and vote yes or no on a piece of legislation.

This is as good an approach to take as I know. If there is a better way somebody should have told me about it. If there is a provision to send that bill off to committee and let us all work on it, as we do on other forms of legislation, that is acceptable. But the role I am trying to stake out for you is simply that--that when we, as politicians, are expected to stand up and say yes or no to a piece of legislation it would be really helpful if we had information, studies, opinions, positions taken by people like you.

That is the role I am trying to stake out for you so that I cannot stand up this afternoon and say: "Wait a minute. I am not ready to vote on this legislation because I want somebody to study it for another 30 or 40 years." I want to get us over that quantum leap in there.

Mr. Chairman: Mr. Johnson promises 20 seconds.

Mr. J. M. Johnson: I just have a brief comment to compliment Ms. Barnes. I understand that she made a speech last night. The individual who told me about the speech said it was tremendous and was better than most cabinet ministers' speeches.

Ms. Barnes: I do not know whether that is a compliment or not.

Mr. Chairman: Ladies, thank you very much to each of you for coming today, on your terribly busy day, and putting yourselves out for us.

We will adjourn until next Thursday at 10 a.m.

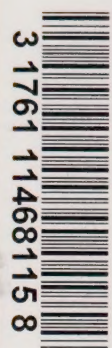
The committee adjourned at 12:03 p.m.

Erratum

No. P-9, page 14, line 22, should read:

built sort of calluses on the mind, if you like. People generally

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